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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-13821-2023

AMAN

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

Present: Mr. Jagjeet Singh, Advocate
for the petitioner.

Mr. Anmol Singh Sandhu, AAG Punjab.

Mr. Arvind Kashyap, Advocate for the complainant.

The jurisdiction of this Court has been invoked under Section 439 Cr.P.C., seeking regular bail to the petitioner in FIR No.133, dated 06.11.2022, under Sections 363, 365 of IPC, 1860, registered at Police Station Division No.1, Pathankot (Annexure P-1).

In the instant case, the petitioner is behind the bars since 06.11.2022 and in fact it is the petitioner, who had informed the parents of the missing minor girl namely Alisha that she has jumped into the canal at new bridge, Abrol Nagar, Pathankot, who might have died. He points that it is on this information given by him only, the parents lodged the instant FIR on the next day against Aman, the petitioner itself, who was taken into custody. He has also referred to certain photographs of CCTV footage of nearby place to show that Alisha is alive and is wondering freely and can be seen in the pictures attached at Annexure P-5 collectively sitting on a pillion seat of Aactiva. The photographs pertains to the date

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i.e., 11.02.2023 when the mother of the petitioner saw Alisha outside the Old Court Complex, Pathankot on 11.02.2023 at about 2.30 P.M.

A status report by way of an affidavit of Lakhwinder Singh, PPS, Deputy Superintendent of Police, Sub Division City, District Pathankot is on record to state that an SIT was constituted, which has conducted an inquiry and submitted a report that they have inquired from the residents of nearby houses of the complainant to counter the CCTV footage. These residents have stated that they never saw Alisha after 05.11.2022 and it is on that basis, the SIT has submitted the report, which is not only shocking for this Court to conclude but shows high handedness and incompetency of the Investigating Agency and the manner in which the investigation has been conducted by the Special Investigation Team, who has admittedly not even taken the possession of DVRs of the relevant CCTVs for that period meaning thereby, the said photographs have not been examined vigilantly, wherein Alisha could be seen sitting on a pillion seat of an Activa being driven by some male person.

Learned State counsel has filed the custody certificate of the petitioner, the same is taken on record. According to the custody certificate, the petitioner is behind the bars for the last 1 year, 2 months and 3 days. At this stage, learned State counsel points out that the Investigating Officer namely ASI Dalbir Singh, who is present in Court alongwith the complete case file, is unable to explain and assist him with regard to the photographs and CCTV footage as to how these were examined and tested while presenting the challan in the Court.

On a query put by this Court, learned State counsel submits that challan was presented on 05.01.2023 with total 16 number of witnesses out of which none has been examined so far after framing of charges on 03.05.2023, which is suffice to hold that trial will take certainly long time for which the petitioner cannot be

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kept behind bars for an indefinite period, as it would amount to infringement of his right to life and liberty, as enshrined under Article 21 of Constitution of India and also against the principle “bail is a rule and jail is an exception”.

In view of the aforesaid discussions made hereinabove, the petitioner is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

However, this petition would further be taken up for considering, wherein Senior Superintendent of Police, Pathankot is directed to come present on 18.01.2024 with an explanation and an affidavit showing the progress and the manner in which the investigation was carried out.

Adjourned to 18.01.2024.

15.01.2024

Meenu

(SANDEEP MOUDGIL)
JUDGE