

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

228

CRM-M-1564-2024

Date of decision:29.02.2024

Gaurav Kumar

....Petitioner

V/s

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Ravi Malhotra, Advocate for the petitioner.

Mr. Anup Singh AAG Punjab.

SUMEET GOEL, J. (Oral)

1. Present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.18 dated 22.02.2023, registered for the offences punishable under Sections 363, 366-A, 376 of IPC and Section 6 of POCSO Act and Section 376 of IPC (added later on) at Police Station Basti Jodhewal, District Ludhiana.

2. The case set up in the FIR in question is as follows:-

"Statement of Satipal son of Narpat, resident of village Khabamau, Police Station Behta, District Unao, Uttar Pradesh, at present resident of in the house of Pitambar Pal, street No. 2, Nanda Colony, Kailash Nagar Road, Police Station Basti Jodhewal, Ludhiana, aged about 47 years, 75084-67064, stated that I am resident of above said address and do the work of printing. I have three children out of them elder son Ranjit Kumar, second daughter Arushi Khushwaha and third, son Ritesh Kumar. Date of birth of my daughter Arushi Khushwaha is 11.05.2007 (aged about 16 years) and she is student of 8th class in Vaid Mandir Public School, Street No.04, Nanda Colony, Kailash Nagar Road, Ludhiana. On dated: 11.02.2023, as per routine, me and my son left for work. My wife Gudiya and my daughter Arushi Kushwaha were in the house, my wife Gudiya does not keep good health and she was sleeping after taking medicine and my daughter Arushi Kushwaha left the house, without disclosing to my wife.

Regarding that my wife informed me through phone and I came to my house and I inquired into from relatives and friends regarding my daughter, but I could not get anything. Till today I have tried my level best to find out my daughter. Today I came to know that Gaurav Kumar son of Dhanpal Kumar, resident of H.No. 3405, Street No. 2, Nanda Colony, Kailash Nagar Road, Police Station Basti Jodhewal, Ludhiana, who is already acquainted to us, who was residing in our Verandah, has enticed away my daughter Arushi from the house with intention to solemnize marriage. Today I was coming to you for information, you have met. Statement has been got recorded to you, read and is correct. Sd/- Satipal, Attested/- Balkar Singh, Police Station Basti Jodhewal, District Ludhiana, Dated: 22.02.2023.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 04.03.2023 and investigation in the case stands completed. Learned counsel has referred, *in extenso*, to the statement made by the victim under Section 164 of Cr.P.C. on 09.03.2023 to contend that there was consensual friendship between the petitioner and the victim which was not to the liking of the family of the victim which has resulted in registration of the FIR in question. In this view of the matter, learned counsel has prayed for grant of regular bail.

4. Learned State counsel has opposed the present petition arguing that the allegations raised are serious in nature and thus the petitioner does not deserve the concession of the regular bail. Learned State counsel seeks to place on record custody certificate dated 28.02.2024 in Court, which is taken on record.

5. I have heard counsel for the parties and have gone through the available records of the case.

6. The petitioner was arrested on 04.03.2023 whereinafter investigation was completed and challan has been presented on 18.04.2023.

Total 19 prosecution witnesses have been cited and culmination of the trial will take its own time. The rival contention of learned counsels, as to whether there was consensual friendship between the petitioner and the victim and the FIR in question is outcome of such friendship not being to the liking of the family of the victim, shall be gone into during the course of trial. This Court does not deem it appropriate to delve deep into these rival contentions, at this stage, lest it may prejudice the trial. The petitioner is a young-man aged 21 years with no criminal antecedents. Nothing perceptible material has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the prosecution evidence. As per custody certificate dated 28.02.2024 filed by learned State counsel, the petitioner has already suffered incarceration for a period of about 01 year. Suffice to say, further detention of the petitioner as an undertrial is not warranted.

7. In view of above, the present petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. concerned CJM/Duty Magistrate. However, in addition to conditions that may be imposed by the concerned CJM/Duty Magistrate, the petitioner shall remain bound by the following conditions:-

- (i) The petitioner shall not mis-use the liberty granted.
- (ii) The petitioner shall not tamper with any evidence, oral or documentary, during the trial.
- (iii) The petitioner shall not absent himself on any date before the trial.
- (iv) The petitioner shall not commit any offence while on bail.
- (v) The petitioner shall deposit his passport, if any, with the trial Court.

- (vi) The petitioner shall give his cellphone number to the Investigating Officer/SHO of concerned Police Station and shall not change his cell-phone number without prior permission of the trial Court/Illaqa Magistrate.
- (vii) The petitioner shall not in any manner try to delay the trial.

8. In case of breach of any of the aforesaid conditions and those which may be imposed by concerned CJM/Duty Magistrate as directed hereinabove or upon showing any other sufficient cause, the State/complainant shall be at liberty to move cancellation of bail of the petitioner.

9. Ordered accordingly.

10. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.

11. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(SUMEET GOEL)
JUDGE

February 29, 2024
Ajay

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No