

2024:PHHC:051014

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

107+230

CRM-M-1807-2024

Date of decision: 16.04.2024

SUBHASH KUMAR

....Petitioner

V/s

STATE OF PUNJAB

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr.Shivam Grover and Ms. Shairon Tyagi, Advocates,
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.152 dated 11.06.2023 registered for the offences punishable under Sections 363/366-A of IPC, 1860 (later on added 376(2)(n) of IPC and Section 6 of the Prevention of Children from Sexual Offences Act, 2012 at Police Station Sahnewal, Ludhiana District Ludhiana.
2. The case set up in the FIR in question (as set out by the petitioner in the present petition) is as follows:-

“Statement of Ranju Devi wife of Late Naseeb Lal Yadav resident of Paigambpur, Police Station Keuti District Darbanga, Bihar presently residing at House No. 458/4/290/8 Gali No. 03, Guru TegBahadur Nagar, Makkar Colony, Giaspura Police Station Sahanewal, Ludhiana, age about 48 years, mobile number 8847360667 has stated that I am above said address and working as resident of the house maker. About 20 years ago, I got married

to Naseeb Lal, who died due to cancer. I am having three children, among which the eldest is son Sandeep Kumar age about 27 years and younger to him is daughter Rakhi Kumari age about 22 years and the youngest daughter named Rohni Kumar age about 17 years. On 07.06.2023 at 06:45 about AM my daughter RohiniKumari went for appearing paper and after appearing in paper, my daughter came up to Ambedkar 11 Nagar along with her friend at her house. After that, she did not come to the home, that she has gone somewhere without asking and telling. At our own level we have been searching for her, but could not found her. On enquiry, came to know that my daughter has been taken away by Subash Kumar son of Shyam Yadav resident of Nahas Rupauli, Police station Bisfi, district Madhubani, Bihar, by alluring and befool her on the pretext of marriage. Legal action must be taken accordingly against Subash Kumar son of Shayam Yadav resident of NahasRupauli, Police station Bisfi, district Madhubani, Bihar. The statement has been recorded to you and read out and it is correct. Sd/- Ranju Devi, Verified by SI Jaspal Singh 272/LUD, In-Charge Chownki Giaspura dated 11.06.2023”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 20.07.2023. Learned counsel for the petitioner further argued that there was consensual friendship between the petitioner and the victim which was not to the liking of the family of the victim and hence the petitioner has been falsely roped into the FIR in question. Learned counsel for the petitioner has further referred, *in extenso*, to the statement made by the victim as PW-3 to argue that she has specifically stated in her Examination-in-Chief that no forcible wrong act was committed with the victim by the petitioner and she had gone along with the petitioner on her own accord. Learned counsel for the petitioner

has further argued that the victim had refused to undergo medical examination. Thus, regular bail is prayed for.

4. Learned counsel for the State has opposed the present petition by arguing that the allegations raised are serious in nature and, thus, the petitioner does not deserve the concession of regular bail.

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

6. The petitioner was arrested on 20.07.2023 whereinafter investigation was carried out & challan was presented on 18.09.2023. Total 12 prosecution witnesses have been cited out of which the material/private three witnesses, namely, complainant/mother of the victim, brother of the victim as also the victim stand recorded as PW-1 to PW-3 respectively. Culmination of the trial will take its own time. The rival contention of the learned counsel for the parties; as to whether there was consensual friendship between the petitioner and the victim which was not to the liking of the family of the victim and hence the petitioner has been falsely roped into the FIR in question the weightage required to be attached to the testimony of the victim (PW-3); 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. Nothing tangible has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the remaining prosecution evidence. As per the custody certificate dated 15.04.2024 filed by the learned State counsel, petitioner has suffered

incarceration for about 08 months and 24 days & is not shown to be involved in any other case. Suffice to say further detention of the petitioner as an undertrial is not warranted in the facts and circumstances of the present case.

7. In view of totality of factual matrix of the present case, the instant petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the learned 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/Illaq 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

April 16, 2024
poonam

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