

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-2667-2024

Date of decision:24.01.2024

Mohammad usaf @ Yusuf

....Petitioner

V/s

State of Punjab

....Respondent

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Naveen Upadhyay, 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.0079 dated 28.08.2023, registered for the offences punishable under Sections 354 IPC and Section 10 of POCSO Act at Police Station Chamkaur Sahib, Punjab.

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

Copy of Statement, " Stated that Rukshan daughter of Bashir Khan, resident of Village Bassi Gujra, Police Station Chamkaur Sahib, District Rupnagar, aged about 16 years, Mobile Number: 83600-02092, I am resident of above said address. I studied till tenth in Government School, Bassi Gujra. On dated 09/08/2023 while I was at my home, at about 08:30 PM, Yousuf son of Issu resident of Bassi Gujra along with his uncle Sham Deen visited my home. He used to visit our home earlier also. When Yousuf and Sham Deen was sitting with my parents my father Bashir Khan told me to bring water. When I reached into my kitchen for bringing water, yousuf on pretext of talking on his mobile also came to our kitchen. He got hold of my hand and forcibly kissed me. When I pushed him and raised hue and cry, my sister in law namely Matina came and I narrated the incident to her. Yousuf tried to ran away after seeing her while she tried to get hold of him, he slapped her and ran away. I came today present along with my sister in law Matina wife of Rafiq Khan resident of Bassi Gujra. I

got Statement got recorded before you and it is read over and found correct. Sd/- Rukhsana. Attested Sd/- Matina Attested SI Swati Dhiman Police Station Chamkaur Sahib Dated: 28/08/2023.”

3. Learned counsel for the petitioner has argued that the petitioner was arrested on 01.09.2023; investigation was thereafter carried out and challan stands presented. Learned counsel has further argued that the culmination of the trial will take long time to conclude, thus, he 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 23.01.2024 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. After the arrest of the petitioner on 01.09.2023, the challan was presented on 19.10.2023 wherein total 13 prosecution witnesses have been cited. As per custody certificate dated 23.01.2024 filed by learned State counsel, the petitioner has already suffered incarceration for a period of about 05 months & same does not reflect involvement of the petitioner in any other case. No tangible material has been brought on record to indicate the likelihood of the petitioner fleeing from the process of law or interfering with the prosecution evidence. In considered opinion of this Court, in the facts and circumstances of the case, further detention of the petitioner as undertrial is not warranted.

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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/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.

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

(SUMEET GOEL)
JUDGE

January 24, 2024
Ajay

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