

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

265

CRM-M-3812-2024

Date of Decision: February 01, 2024

Harish Teji @ Hari

.....Petitioner(s)

Vs.

State of Punjab

.....Respondent(s)

CORAM: HON'BLE MS. JUSTICE SUDEEPTI SHARMA

Present: Mr. H.S. Oberoi, Advocate for the petitioner(s).

Mr. C.L. Panwar, Addl.A.G., Punjab.

SUDEEPTI SHARMA J. (ORAL)

The present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.35 dated 09.03.2023, under Section 376D, A, 363, 366, 120-B IPC and Section 6 of POCSO Act, registered at Police Station Sadar Jalandhar, District Jalandhar.

2. Learned counsel for the petitioner contends that the petitioner has been arrested on 10.03.2023 and complainant as well as victim have already been examined. He further contends that the petitioner is not involved in any other criminal case.

3. Custody certificate dated 01.02.2024 has been filed in the Court today and the same is taken on record. Learned State counsel contends that out of total 16 witnesses, 5, including the victim and the complainant, have been examined.

4. I have heard learned counsel for the parties and gone through the record.

5. Statement of the victim is reproduced as under:-

PW-2 L (name withheld) victim/ prosecutrix D/o D R/o Village S Jalandhar recalled for further examination in chief.

At this stage, Ld. Addl. PP for the state requested that parcels of containing case property Le clothes bearing seal impression FSL, Punjab both parcels be opened for the proper identification of the clothes. Request considered and allowed.

The abovesaid parcels after breaking seal impression FSL Punjab opened in the presence of the witness and the counsel for the accused.

I identify my underwear taken out from the parcel. The same is MO-1. I also identify my clothes ie one shirt and one lower taken out from the parcel. The same are MO-2 and MO-3. XXXXXXXX(By Sh. Jatinder Arora Advocate for the accused no.2 Harish Teji)

I have seen the accused produced through VC I do not identify accused Harish @ Hari, he is not the same person who was not standing at the time of alleged occurrence. Hari was not even sitting on the back seat of Activa. On 10.07.2023, when the accused was shown to me through VC, the video was blurred and I could not properly see the accused. I have made statement against accused Hari at the instance of my relatives and under the pressure of police, to the police, before this Hon'ble court and Ld. Magistrate under section 164 Cr.Pc Ex. P-1. The accused Hari @ Harish has not committed any offence with me nor he was present at the place of alleged occurrence and he is innocent. The accused Hari never called me and did not catch my hands forcibly. He did not pressurize me to sit on activa forcibly as he was never present there.

5(a). Statement of the complainant is reproduced as under:-

PW-3 MK (name withheld) aunt/ massi of victim/ prosecutrix W/o S R/o Village S Jalandhar recalled for further examination in chief.

I have seen and identify the undergarments of my niece Le victim prosecutrix taken out from the parcels which are underwear MO- 1, her shirt MO-2 and her lower MO-3.

XXXXXXX(By Sh Jatinder Arora Advocate for the accused Harish @ Teji)

Hari was not even sitting on the back seat of Aactiva. I was not present at the time of alleged occurrence. I have made statement against accused Hari at the instance of my relatives and under the pressure of police, to the police, before this Hon'ble court on 10.07.2023. The accused Hari @ Harish has not committed any offence with my niece nor he was present at the place of alleged occurrence and he is innocent. The victim/ prosecutrix never named accused Hari @ Harish on 08.03.2023 before me or thereafter.”

6. A perusal of the FIR shows that the petitioner is not the main accused in the present case. After perusal of both the aforesaid statements of victim as well as of the complainant and taking note of fact that the petitioner is in custody since last one year and that out of total 16 witnesses, 05 have been examined and 11 are yet to be examined and that the conclusion of the trial would take long time, this Court opines that no useful purpose would be served by keeping the petitioner behind the bars for an indefinite period.

7. In view of the above, provided the petitioner is not required in any other case, the petitioner shall be released on bail in the above-noted FIR on his furnishing adequate bail bonds and surety bonds to the satisfaction of the Trial Court/Duty Magistrate, concerned.
8. However, the Prosecution will always be at liberty to apply for cancellation of bail in case the petitioner is found to be misusing the concession of bail in any manner.
9. It is also made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.
10. Disposed off accordingly. Pending applications, if any, also stand disposed off.

(SUDEEPTI SHARMA)
JUDGE

February 01, 2024
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Whether speaking/reasoned:	Speaking
Whether reportable:	Yes / No