

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

267

CRM-M-3942-2024

Date of decision: 01.02.2024

Raj Kumar @ Raj

....Petitioner

V/s

State of Haryana

....Respondent

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Sajal Bansal, Advocate with
Mr. Saransh Sabharwal, Advocate for the petitioner.
Ms. Ankita Ahuja, AAG Haryana.

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.98 dated 29.03.2023 (Annexure P-2), registered for the offences punishable under Section 365 IPC and Sections 120-B, 363, 365, 366, 366-A, 376(2)(n) IPC (added later on) and Sections 6, 17 and 21 of the Protection of Children from Sexual Offences Act, 2012 (added later on) at Police Station Kalka, District Panchkula.

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

“Sir, copy of application is as under, To the SHO sir, Respected Sir, It is requested that I Arun Dhiman S/O Sh Karamchand Dhiman Resident of Sharma colony, Kalka, yesterday on 20/2/2023 at 7 PM have seen my daughter with a boy named Raj who resides near Himachal Eye Hospital and we after coming back to home make our daughter understand and threatened her and slept and when we wake up in the morning then at 7:30 am we found that our daughter Khushi was not at home and we have doubt on this boy namely Raj and his mobile no is 9518485122 which is switch off now, we tried to search whereabouts of our daughter who is minor having date of birth

22/1/2006 and she took active along with her which was found at bus stand Kalka. Kindly find our daughter as soon as possible, she had left her phone too at our home. Girl is fair and height is 5 foot and was wearing blue jeans and light green top. Applicant Arun Dhiman 8708004425.”

3. Learned counsel for the petitioner has argued that the petitioner was arrested on 22.04.2023 whereinafter investigation is complete and challan has been filed. Learned counsel has further argued that the date of alleged incident is 27.03.2023 and before that another FIR bearing No.57 dated 21.02.2023 was registered under Section 365 of IPC at Police Station Kalka, District Panchkula wherein the petitioner (herein) was granted the concession of regular bail by the learned District Court, Panchkula. It is further argued by learned counsel for the petitioner that, more or less on the same set of allegations, the petitioner has been roped into the present FIR at the instance of the father of the victim. Learned counsel has referred, *in extenso*, to the statement of the victim dated 21.04.2023 made under Sections 164 of Cr.P.C. (copy whereof has been appended as Annexure P-3 with the instant petition) to contend that it is a case of consensual relationship between the petitioner and victim which was not to the liking of the family of the victim. 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 29.01.2024 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. The petitioner is a young man aged 19 years of age and his continued incarceration may jeopardize his career prospects. Petitioner was arrested on 22.04.2023 whereinafter investigation was carried out and challan was presented on 20.06.2023. Total 20 prosecution witnesses have been cited and the culmination of trial will take its own time. The rival contention of learned counsel for the parties, regarding the false implication of the petitioner as also there being consensual relationship between the petitioner and the victim, will 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 case of either parties. As per custody certificate dated 29.01.2024, the petitioner has already suffered incarceration for a period of more than 09 months. Further, no 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. 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/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

February 01, 2024
Ajay

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