

2024:PHHC:014483

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

212

CRM-M-4495-2024
Date of decision: 02.02.2024

Ajay Kumar

....Petitioner

V/s

The State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr.H.S. Chaddha, Advocate,
for the petitioner.

Mr.Hemant Aggarwal, 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.0059 dated 08.07.2023, registered for the offences punishable under Sections 363, 366-A (Section 376 of IPC and Section 6 of the POCSO Act added later on) at Police Station Sadar, District Rupnagar.

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

“Statement of Harwinder singh S/O Tarlok Singh R/O village Biko P.S. Sadar, Rupnagar Distt. Rupnagar aged about 43 years having mobile no. 89684-32805, got recorded his statement that I am resident of above said address and an agriculturist. I have three children i.e. two daughters and one son. The date of birth of my elder daughter is 2.3.2007, She is in +I in Saint Carmel School, Katli. On 7.7.2023, they were sitting in the room of their house. My daughter at about 7.00 PM went in the neighborhood after informing them, but she did not come back. I along with my family-members searched for her. My daughter told me that one boy namely Ajay Kumar whose mobile number is' 62844-65310 has become her friend on Instagram. Ajay Kumar told her that he is resident of Nangal. She also told that said Ajay Kumar was threatening her to leave her family members and to perform marriage with him, otherwise he will do harm of her and her family members. Now I have come to know- that Ajay Kumar

son of Harbhajan Singh resident of village Thalu, Police Station, Sri Anandpur Sahib; District Rupnagar has enticed her daughter and took her away with him on the pretext to marry her. Appropriate legal action be taken against above mentioned ajaykumar. Today presented myself at your police station Ghanoli along with my relative Jaspal singh S/o Rulda Singh R/o village Barsalpur, P.S. Balak Majra Distt. S.A.S. Nagar and got my statement recorded and heard the same is correct. Sd/- Harwinder singh, Sd/- Jaspal singh. Affirmative statement Jaspal singh S/o Rulda Singh R/o village Barsalpur, P.S. Balak Majra Distt. S.A.S. Nagar having mobile no. 9417089591 is correct- Sarabjit singh SI I/C PP Ghanoli, P.S. Sadar Rupnagar, dated 08-7-2023.”

3. Learned counsel for the petitioner has argued that the petitioner was arrested on 08.08.2023 whereinafter investigation was completed & challan stands presented. Learned counsel for the petitioner has referred to the testimony of the victim (recorded as PW-1) to argue that once she had turned hostile, the trial, in all likelihood, is not likely to culminate into conviction. 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. Learned State counsel further relied upon the testimony of the father of the victim (examined as PW-2) to argue that the complainant-father of the victim has fully supported the case of the prosecution.

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

6. The accused was arrested on 08.08.2023 whereinafter investigation was carried out & challan was presented on 02.09.2023 wherein total 18 prosecution witnesses were cited. The trial is underway & culmination

of the same will take its own time. The rival contentions of the parties regarding the weightage required to be attached to the testimony of the hostile victim (PW-1) & the statement made by her father (PW-2) supporting the case of the prosecution 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 the either parties. As per the custody certificate dated 01.02.2024, the petitioner has suffered incarceration for about 7 months & is not shown to be involved in any other case. No perceptible material has been brought on record to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the remaining prosecution evidence. Suffice to say, further detention of the petitioner as an undertrial is not warranted.

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 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 02, 2024
poonam

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