

2024:PHHC:016795

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

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CRM-M-5008-2024

Date of decision:07.02.2024

Amninder Singh Gill

....Petitioner

V/s

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr.Ashok Giri, 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.121 dated 23.07.2023, registered for the offences punishable under Sections 376, 315, 316, 420, 120-B of IPC, 1860 & Sections 4, 6 of the POCSO Act, at Police Station Shahkot District Jalandhar.

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

“Statement of Rebika daughter of Santokh Singh resident of Street Bagwala Shahkot, Police Station Shahkot District Jalandhar aged about 16 years mobile no. 99151-94302, stated that I am resident of above mentioned address and my date of birth is 05.07.2007. I am a student of 11th class studying in Darbara Singh Memorial Senior Secondary School, Malsian. After School hours, I used to take tuitions from Master Prabhjot resident of Gandhi Chownk, Shahkot. Amninder Singh son of Sukhdev Raj resident of Bhadma also used to take tuitions there. We became friends. He used to take me to different restaurants in Nakodar on the pretext of eating and drinking. On false pretext of marriage, he used to make physical relations with me against my

will. I have been in physical relations with Amninder Gill for around 6-7 months. I became pregnant therefore I felt pain in my abdomen. I told Amninder Gill about my abdominal ache. Yesterday on 22.07.2023 at about 08:00 am, Amninder Gill asked me to reach Hanuman Mandir, Shahkot. He alongwith his friend Pawan resident of Sandan, drove me from there in a Breeza Car. They both first took me to Nakodar and then to some village across Satluj river. They forced me to consume abortion pill given by doctor. My family was repeatedly calling Amninder Gill who was telling my family that I am not with him. Then he asked his friends Pawan resident of Sandan, Salim resident of Bhadma for dropping me to Shahkot on a motorcycle. They both left me at the Bus Stand in front of Police Station Shahkot. My mother Jasveen Kaur, father Santokh Singh and other relatives were already present there in front of Police Station in connection with my search. I met them. I had a burning abdominal pain and wanted to urinate. I went to the toilet located inside Shahkot Police Station with my mother as there was no toilet nearby. Pain started in my abdomen and I delivered a featus there inside bathroom. My parents with the help of other relatives took me and featus to Civil Hospital, Shahkot. The doctor declared it brought dead. After giving me basic treatment, I was referred to Civil Hospital, Nakodar. Then my family members took me and the featus to Civil Hospital, Nakodar. Due to absence of lady doctor at Civil Hospital Nakodar, I was referred to the Civil Hospital, Jalandhar and featus was put at the mortuary, Nakodar. Presently, I am under treatment at Civil Hospital, Jalandhar. Strict legal action be taken against above mentioned persons. I have got recorded my statement before you which was read over to me and found to be correct. Sd/- Rebika, Sd/- Jasveer Kaur, verified by Amanpreet Kaur SHO Police Station Shahkot, District Jalandhar Rural dated 23.07.2023.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 23.07.2023 & challan already stands presented. Learned counsel has referred, *in extenso*, to the testimony of the

victim (when examined as PW-3) to argue that the victim has turned hostile and in all likelihood the trial 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.

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

6. The petitioner was arrested on 23.07.2023 whereinafter challan has been presented on 19.09.2023. Total 25 prosecution witnesses have been cited out of which 3 stand examined & hence the culmination of trial will take its own time. The rival contention of the learned counsel for the parties regarding the weightage required to be attached to the testimony of the hostile victim will be seen 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 filed by the learned State counsel, the petitioner has suffered incarceration for more than six months & is not shown to be involved in any other case. No perceptible material has been brought forward 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/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 07, 2024
poonam

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