

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****273****CRM-M-5872 of 2024****DATE OF DECISION :- 18.04.2024****Sahil Kumar****...Petitioner****Versus****State of Haryana****...Respondent****CORAM: HON'BLE MR. JUSTICE SUMEET GOEL****Present:-** Mr. Navdeep Singh, Advocate for
Mr. Sanjeev Majra, 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. 42 dated 10.02.2023, registered for the offences punishable under Sections 366-A of IPC later on added Section 363, 376(2)(n), 506 of IPC and Section 6 of POCSO Act, 2012 at Police Station Pundri, District Kaithal.
2. Counsel for the petitioner submits that the petitioner is in custody since 12.02.2023. Learned counsel for the petitioner has further argued that the statement of the victim recorded under Section 164 of Cr.P.C on 12.02.2023 reflects that nothing incriminating was alleged against the petitioner & it is thereafter under the pressure of the family the victim has testified against the petitioner. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in the case in hand on account of their being consensual friendship between the petitioner and the victim

which was not to the liking of the family of the victim. Thus regular bail is prayed for.

3. Counsel for the State opposed the present petition arguing that the allegations raised are serious in nature and thus the petitioner does not deserve the concession of regular bail.

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

5. The petitioner was arrested on 12.02.2023 wherein after investigation was carried out. The challan was presented on 03.03.2023. Total 24 prosecution witnesses have been cited out of it 9 witnesses stand examined and 3 have been given up. It is not in dispute that all private/material witnesses already stand examined. The rival contentions of the learned counsel for the parties; regarding the weightage required to be attached to the statement made by the victim under Section 164 of Cr.P.C vis-a-vis her testimony in the Court as a prosecution witness as also as to whether the petitioner has been falsely implicated in the case in hand; shall be gone into during the course of trial. This Court does not deem it appropriate to delve into these rival submissions, at this stage, lest it may prejudice trial proceedings. No tangible material has been brought on record to show that there is likelihood of the petitioner absconding from the process of justice or interfering with the prosecution evidence. As per the custody certificated dated 18.04.2024 filed by the learned State counsel, the petitioner has suffered incarceration for more than 1 year and 2 months & is not shown to be involved in any other case. The earlier bail petition filed by the petitioner was dismissed as withdrawn on 10.10.2023. After the said withdrawal, the petitioner has undergone 6 more months of custody and no allegation has been made against the petitioner

and/or his family members as to any instance of them trying to influence any prosecution witness. Suffice to say, in the entirety of facts and circumstances of the case, further detention of the petitioner as an under trial is not warranted.

6. 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.

7. 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.

8. Ordered accordingly.
9. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.
10. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(SUMEET GOEL)
JUDGE

18.04.2024

P.Singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No