

2024:PHHC:048040

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

227

CRM-M-5491-2024 (O&M)
Date of decision: 09.04.2024

PREM KUMAR

....Petitioner

V/s

STATE OF HARYANA

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr.S.K. Verma, Advocate,
for the petitioner.

Ms. Priyanka Sadar, AAG, Haryana.

Mr. S.K. Bishnoi, Advocate,
For the complainant

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.63 dated 21.08.2023 registered for the offences punishable under Sections 376, 451 and 511 of IPC, 1860 at Women Police Station, Hansi District Hisar.

2. The case set up in the FIR in question (as set out by the petitioner in the present petition) is as follows:-

“Brief facts of the case are that on 21 (st) August 2023, complainant Sanju made a complaint while coming present in the Police station, gist of which is as under. Sir, I, Sanju wife Sombir, am resident of Village Dhana Khurd. My husband does electrical work. Today on 21.08.2023 at about 8:00 o'clock morning, my husband had gone out of the house for work. My both children had gone to school. My younger girl age 2 years was playing in the House of my neighbour Prem Kumar son of Jai Bhagwan. Prem also does electricity work. Prem came to our house for

leaving my daughter. Finding me alone at home, he used force against me and laid down me on the bed. He put out his pant and pulled down my salwar and tried to make relation forcefully. In the meantime, my husband came there and Prem fled away from there. I want to get done legal action against Prem. Sd/- Sanju. Complainant Sanju w/o Sombir, resident of village Dhana Khurd. 9992016971. Dt. 21.08.2023. Prem- 9306940434.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 21.08.2023. Learned counsel for the petitioner has further argued that there was consensual relationship between the petitioner and the victim which was not to the liking of the family of the victim. Learned counsel has relied upon a pen drive (copy whereof has been appended as Annexure P-3 with the present petition) to argue that the conversations/screen shots in the said pen drive clearly reflects the consensual relationship between the petitioner and the victim. Learned counsel for the petitioner has further argued that the victim had refused to undergo medical examination which further causes dent in the prosecution story. 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 21.08.2023 whereinafter investigation was carried out & challan was presented on 29.09.2023.

Total 10 prosecution witnesses have been cited and culmination of the trial

will take its own time. The rival contention of the learned counsel for the parties; as to whether or not there was consensual relationship between the petitioner and the victim as also the weightage/veracity of pen drive in question; shall 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 trial. Nothing tangible has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the prosecution evidence. As per the custody certificate dated 08.04.2024 filed by the learned State counsel, the petitioner has suffered incarceration for about 07 months and 17 days & is not shown to be involved in any other case. Suffice to say further detention of the petitioner as an undertrial is not warranted in the facts and circumstances of the present case.

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 learned 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

April 09, 2024
poonam

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