

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

210-2

CRM-M-6120-2024

Date of decision:09.02.2024

Hari Chand

...Petitioner

V/s

State of Union Territory, Chandigarh

...Respondent

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Surinder Avinash K. Sharma, Advocate for the petitioner.
Mr. Munish Bansal, P.P. U.T. Chandigarh with
Mr. Ankush Singla, Advocate for the respondent.

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.204 dated 06.12.1999, registered for the offences punishable under Sections 342, 363, 366, 376, 506 and 34 IPC at Police Station Manimajra, District Chandigarh.

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

“To, The S.H.O. sir, Police Station Manimajra, Chandigarh. Sir, humbly submitted that I, Nathi Lal son of Shri Hari Singh, am residing along with my children at R.B.T. Bhattha, Mauli Jagraan, Police Station, Manimajra for the last 5-6 years. I have 9 children. Prem Pal, Mohinder Singh, Hari Chander, Shish Pal, Pritam Singh, Veer Vati, working at the same brick-kiln, and residents of village Amanabad, Poice Station Uyaiti, Post Khuday, District Badayun, have lured and taken away on 9-11-99 my daughter named Raj Rani alias Pinki aged about 15-1/12 years without my consent. Till today, I have been searching of my own. My daughter may kindly be searched and legal action may kindly be taken against the above-stated persons. I was going to Police Station to submit this complaint that you met. Nathi Lal, Bhattha RBT, Mauli Jagraan, Police Station Manimajra dt. 6-12-99.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 18.07.2023. Learned counsel has further referred, *in extenso*, to the judgment dated 05.03.2014 passed by Additional Sessions Judge, Chandigarh wherein co-accused Mohinder Singh was acquitted & hence submits that the present petitioner is also likely to be acquitted in terms of the above said judgment. Learned counsel for the petitioner has further referred to the testimony of victim (examined as PW-3), before the learned trial Court in the trial proceedings against co-accused Mohinder Singh, to contend that the victim had turned hostile & hence in all likelihood, the trial against the petitioner (herein) is not likely to culminate into his conviction. In this view of the matter, learned counsel has prayed for grant of regular bail.

4. Learned Public Prosecutor, U.T. Chandigarh 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 09.02.2024 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 was arrested on 18.07.2023 whereinafter challan against him was presented on 21.09.2023 after completion of investigation. Total 21 prosecution witnesses have been cited and culmination of the trial will take its own time. The rival contention of learned counsel for the parties; as to whether the petitioner (herein) is likely to be acquitted on account of the judgment dated 05.03.2014 passed by learned Additional

Sessions Judge, Chandigarh in the trial proceedings relating to co-accused Mohinder Singh; will be gone into during the trial against the present petitioner. 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 09.02.2024 filed by learned Public Prosecutor, Chandigarh, the petitioner has already suffered incarceration for a period of about 07 months & is not shown to be involved in any other case. Further, no tangible material has been brought forward to indicate the likelihood of the petitioner interfering with the prosecution evidence. Keeping in view the entirety of the facts and circumstances of the case, 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/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. Keeping in view the fact that FIR in question was registered in the year 1999, the trial Court is directed to expedite the trial and conclude the same expeditiously preferably within eight months from the date of receipt of certified copy of this order.

12. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(SUMEET GOEL)
JUDGE

February 09, 2024
Ajay

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