

233

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-5570-2024 (O&M)
Date of Decision: 08.02.2024

GUDDU KHAN

.. Petitioner

Vs.

STATE OF HARYANA AND OTHERS

..Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Rajiv Kumar Saini, Advocate for the petitioner.

Ms. Priyanka Sadar, 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.452 dated 15.03.2023, registered for the offences punishable under Sections 365, 120-B, 467, 468 and 471 of IPC and Section 6 of POCSO Act, 2012 at Police Station Civil Lines, Karnal.
2. The case set up in the FIR in question is as follows:-

“The copy of application is as to Honorable SHO Sahab Police station Civil Lines Karnal, Sir it is requested that I am Sunil, son of Mr. Bhopal, caste Dhanak (SC), resident of Hansi Road, Brahma Magar Street No. 8, near Devi Mandir, Karnal. That date of birth of my daughter Sakshi is 29-06-2007. Today on 15-03-2023 her 10 class exam was held in SBS SCHOOL. That my daughter Sakshi studies in Government Girls Senior Secondary School Railway Road, so I left my daughter Sakshi at Government Girls Senior Secondary Railway Road at 8 a.m. and after that, since my daughter did not come home, I went to pick her up in her Government Girls Senior Secondary, school, but she was not found there. Thereafter I went to SBS SCHOOL where Sakshi had her paper and my daughter Sakshi was not found there too. Sir, I have inquired about my relations and everywhere. But my daughter Sakshi has not been found anywhere. Sir, I request you to search for

my daughter Sakshi. It will be a big favour by you. Thank you. Date 15-03-2023 SD Sunil Applicant Sunil S/o Shri Bhopal Caste Dhanak (SC) Resident Hansi Road Brahma Nagar Street No. 8 Near Devi Mandir Karnal Mo. 9817848473,93064776046".

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 23.08.2023 and challan already stands filed. Learned counsel for the petitioner, while relying upon the order dated 13.07.2023 passed by this Court in CRWP-6823-2023, has argued that the petitioner and the victim had married out of their own free will and had even approached this Court for grant of protection. Learned counsel for the petitioner has further referred, *in extenso*, in the statement made by the victim under Section 164 of Cr.P.C. on 03.08.2023, to argue that the relationship between the petitioner and the victim was a consensual one which was not to the liking of the family & on this count the petitioner has been roped into the present FIR. Thus, regular bail is prayed for.

4. Learned State counsel 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.

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

6. The petitioner was arrested on 24.08.2023 whereinafter investigation was carried out and challan stands presented on 30.09.2023. Total 24 prosecution witnesses have been cited & culmination of the trial will take its own time. The rival contention of the learned counsel for the parties as to whether the relationship between the petitioner and the victim was consensual in nature 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 rights of either of the

parties. As per custody certificate dated 08.02.2024 filed by learned State counsel, the petitioner has suffered incarceration for more than five months & the same does not reflect involvement of the petitioner in any other case. No tangible material has been brought forward to indicate that there is likelihood of the petitioner absconding from the process of law or interfering with the 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.

08.02.2024

Jasmine Kaur

(SUMEET GOEL)

JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No