

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

219

**CRM-M-7775 of 2024
DATE OF DECISION :- 11.03.2024**

Shivam

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Ms. Kuljeet Kaur, 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. 5 dated 04.01.2023, registered for the offences punishable under Section 6 of POCSO Act and Sections 363,366,506 of IPC at Police Station Sadar Gurugram, District Gurugram.
2. Counsel for the petitioner submits that the petitioner is in custody since 12.01.2023 and trial is underway. Learned counsel for the petitioner has further referred, in extenso, to the testimonies of PW3 (victim) and PW4 (complainant/mother of the victim) to argue that the material witnesses have turned hostile and thus the trial is not likely to culminate into conviction. 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 12.01.2023 wherein after investigation was carried out and the challan was presented on 06.03.2023 Total 17 prosecution witnesses have been cited and culmination of trial will take its own time. The rival contentions of the learned counsel for the parties regarding the weightage required to be attached to the testimony of hostile witnesses shall be gone into during the course of trial. This Court does not deem it appropriate to delve into these rival contentions, at this stage, lest it may prejudice the trial. 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 certificate dated 08.03.2024 filed by the learned State counsel, the petitioner has suffered incarceration of about 1 year and 2 months & is not shown to be involved in any other case. 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

11.03.2024
P.Singh

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No