

2024:PHHC:041873

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

209

CRM-M-7064-2024
Date of decision: 22.03.2024

PARVEEN

....Petitioner

V/s

STATE OF HARYANA

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Rajender Singh Malik, 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.265 dated 23.07.2023 registered for the offences punishable under Sections 4 and 18 of the POCSO Act, 2012 and Sections 376, 452, 506 & 511 of IPC, 1860 at Police Station Sadar Sonapat, District Sonapat.

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

“TO SHO P.S. Sadar Sonapat, Sir, It is requested that I (W/o Parteep) am resident of Village Jahri, Tehsil Sonapat and doing a private job and having two children son and daughter and age of my daughter is 17 years and 7 months and she has been studying in 12th Standard. On 21.07.2023, when I was returned from the job, then my daughter namely Nancy told me that at

about 2.15 p.m. when she returned from the school then Parveen S/o Sukhbir Village Jahri who is neighbourer entered in my house from the roof and caught hold my daughter forcibly from the back with bad intention and tried to commit wrong act upon my daughter on the point of knife then my daughter raised cry for help then meanwhile my son namely Aryan came over there and rescued my daughter from the clutches of Parveen. Parveen while leaving the spot threatened to kill my daughter and son and ran away from the roof. Legal action be taken against accused Parveen. I have written my complaint. SD Beenu Applicant w/o Parteep VPO Jahri, Sonapat, PH.9812223583, 8307880857, Dated 23/07/2023.”

3. Learned counsel for the petitioner has argued that the petitioner was arrested on 28.07.2023. Learned counsel for the petitioner has further argued that, during the course of trial, the material private witnesses stand examined. Learned counsel has submitted that the petitioner has been falsely implicated in the present FIR due to dispute in the family of the petitioner & the complainant. To buttress his argument, learned counsel has relied upon the cross-examination of PW-1 (victim) relevant whereof reads as under:-

“It is wrong to suggest that my mother has complained against several persons in our village. Self stated that my mother has complained against my father. It is correct that my mother has given the complaint against Kavita Sarpanch in the police station. It is correct that my mother has given the complaints against Neeraj son of Prem Pandit, Raman son of Ved Raj Pandit, Jogender son of Ramphal, Suchitar son of Ishwar. It is wrong to suggest that my mother has given the complaint against Rambir son of Bhane Lakra and Sonu son of Rohtash Pandit. It is wrong to suggest that complaints filed by my mother are false or that any compromise has been entered monetarily for the reason that the complaints are false. Self stated that complaints

were withdrawn as it was assured that they would not trouble us again.”

Further, the learned counsel for the petitioner has referred, *in extenso*, to the testimony of PW-5 (mother of the victim/complainant), relevant whereof reads as under:-

“The house in which I resides is a single floor house. It is correct that I have given complaints against several persons in our village. Self stated that said complaints have been given by me as they have harassed me and had exerted pressure upon me. It is wrong to suggest that my husband used to stop me from giving complaints against other villagers. Self stated that my husband has not been residing with me so no question arises. It is wrong to suggest that my husband has been taking sides with the villagers in my dispute with the villagers for which reason present case has been got registered. Self stated that no such thing has ever happened and my husband does not stay with me. I have not told my husband about the present occurrence prior to filing of the complaint. Self stated that my husband is not residing with me.

It is wrong to suggest that in the Panchayat, regarding the dispute with Neeraj son of Prem Pandit, Raman son of Ved Raj Pandit, Jogender son of Ramphal and Suchitar son of Ishwar, father of accused had spoken in their favour for which reason présent case has been got falsely registered by me against accused Parveen.

It is wrong to suggest that Neeraj son of Prem Pandit, Raman son of Ved Raj Pandit, Jogender son of Ramphal and Suchitar son of Ishwar, father of accused had helped monetary as well as assistance to my husband in our family dispute for which reason present case has been got falsely registered by me against accused Parveen.”

Learned counsel for the petitioner has, thus, argued that the case in hand is one of false implication and the petitioner deserves the concession of regular bail.

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 28.07.2023 whereinafter investigation was carried out & challan was presented on 18.09.2023. Total 19 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 regarding the evaluation of the testimony of the victim as also mother of the victim/complainant 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. It is not in dispute that all the private witnesses stand examined. Nothing tangible has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the remaining prosecution evidence. As per the custody certificate dated 21.03.2024 filed by the learned State counsel, petitioner has suffered incarceration for about 07 months and 24 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

March 22, 2024
poonam

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