

2024:PHHC:022350

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

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CRM-M-7270-2024
Date of decision: 16.02.2024

Aman

....Petitioner

V/s

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Parminder Singh, 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. 173 dated 01.05.2022, registered for the offences punishable under Sections 363,366,376(3),506 IPC and Section 4 of POCSO Act, 2012 at Police Station Kunjpura, District Karnal.

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

“To SHO Kunjpura Karnal. Sub: For missing of daughter. Sir, it is requested that I am Harpal S/o Shri Baljit resident of village Mehmampur District Karnal. I do labour work. I have two daughters. Elder daughter's name is Poonam, who has been got married. And younger daughter whose name is Sonia, she is aged about 14 years, she has mobile no.9671247131. Now this mobile number is switched off. Today at about 01.00 and 01.30 PM, she is missing from the house, whose height is about 4 feet 8 inch. She is wearing chappal in feet. I searched her very much in my village and nearby but she is not found anywhere. Hence, it is

requested to your goodself that I may helped in searching out of my daughter. It shall be very kindness of Thanking you. you. Date 01.05.2022. Sd/- LTI Harpa! Yours faithfully Harpal S/o Shri Baljit resident of village Mehmadvpur District Karnal Mobile No.9306883414. ”

3. Learned counsel for the petitioner submits that the petitioner was arrested on 05.08.2023 whereinafter investigation was carried out and challan stands presented. Learned counsel for the petitioner, with vehemence, has argued that the first statement under Section 164 Cr.P.C. of the victim was recorded on 03.05.2022 wherein no allegation of assault was made against the present petitioner namely Aman and it is subsequently on 25.01.2023 that a supplementary statement under Section 164 Cr.P.C was made by the victim involving the petitioner into the FIR in question. Learned counsel for the petitioner has also argued that the victim refused to undergo medical examination initially on 04.05.2022. Even in her statement before the CWC on 14.05.2022, it was categorically stated by the victim that the father of the victim is pressurising her to make statement involving the accused. 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 accused is in custody since 05.08.2023. The challan stands presented wherein total 16 prosecution witnesses have been cited.

The rival contentions of the parties regarding the issue(s) of there being

about more than 7 months gap in the two statements recorded under Section 164 Cr.P.C. as also the victim initially refusing to undergo medical examination on 04.05.2022 shall be gone into during the trial. This Court does not deem it appropriate to delve deep into the rival contentions, at this stage, lest it may prejudice the case of the either parties. No tangible material 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 15.02.2024 filed by the learned State counsel, the petitioner has already suffered incarceration for more than 6 months & the petitioner is not shown to be involved in any other case. 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 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

February 16, 2024

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