

2024:PHHC:022156

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

211

CRM-M-7399-2024

Date of decision: 16.02.2024

Pankaj

....Petitioner

V/s

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Vijay Kumar Jindal, Senior Advocate with
Mr. Vrishank Suri, Advocate,
for the petitioner.

Ms. Ankita Ahujka, 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.164 dated 19.05.2022 registered for the offences punishable under Sections 506 of Indian Penal Code, 1860 and Section 6 of the Protection of Children from Sexual Offences Act, 2012, at Police Station Sector 14, Gurugram, District Gurugram.

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

“To, The SHO, Police Station Sector 14, Gurugram, It is requested that I Rinki Devi, Wife of Sunil Singh, resident of village Tikampur, police station, Taraya, district Saran, Bihar am living as a tenant in house number 1619/3, Gali number six, Rajiv Nagar, Gurugram. I am working in a company IDC Sector 14 Gurugram and my husband is working as a security guard. We have two children, one son who is married and the other, daughter Preeti aged 14 years. That my daughter was not

keeping well for quite sometime so we took her to Ganga Clinic, Sector 12 Gurugram where we were suggested to get an ultrasound check up done. When i along with my son's wife Pooja got my daughter Preeti to the Unique Diagnostic Centre, New Railway Road, we were told by the doctor after ultrasound that in fact my daughter Preeti is 3 months pregnant. When i enquired from my daughter she told me that one Pankaj son of Laxman who runs a shop below our tenanted premises coerced her and on 3-4 occasions did bad things with her. He used to tell her that since he is a boy, nothing will happen to here whereas since she is a girl, her name will be spoilt. That the said Pankaj after coercing my daughter and doing bad things with her has now got her pregnant. It is prayed that a legal action be taken against Pankaj. I have given my complaint in the presence of Legal Advisor Pooja Rajput. Signed Rinki Devi 9773886892”

3. Learned senior counsel for the petitioner has submitted that the petitioner is in custody since 19.05.2022 & investigation in the case already stands completed. Learned senior counsel has further referred, *in extenso*, to the testimony of the victim (PW-2) & testimony of the complainant (PW-5) to argue that the victim as also the complainant have turned hostile and, in all likelihood, the trial is not likely to culminate into conviction. 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 petitioner was arrested on 19.05.2022 whereinafter investigation was carried out & challan was presented on 08.07.2022.

Total 18 prosecution witnesses have been cited and the conclusion of the trial will take its own time. The star prosecution witnesses i.e. victim as also the complainant already stand recorded as PW-2 & PW-5. The rival contentions of the learned counsel for the parties regarding the weightage required to be attached to the testimony of the hostile witnesses will be seen 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 case of the either parties. No perceptible 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 14.02.2024 filed by the learned State counsel, the petitioner has suffered incarceration for about 01 year and 09 months & 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

poonam

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No