

2024:PHHC:044346

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

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CRM-M-9437-2024

Date of decision: 03.04.2024

Sajid

....Petitioner

V/s

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Yash Dev Kaushik, 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.205 dated 31.08.2022 registered for the offences punishable under Sections 506 of IPC, Section 201 of IPC added subsequently & Section 6 of the POCSO Act, 2012 at Police Station Women NIT, Faridabad, District Faridabad.

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

“Statement of D/O Abdul Rehman R / o village Fatehpur Tagga, P.S. Dhauj District Faridabad age 15 years Mobile 9818029232, study up to 3rd pass. Stated that I am resident of above said address. We are four brothers and sisters I am younger one. My father working as motor welder at Sarurpur, Faridabad and my mother is a house wife. I have studied up to 3rd standard in Government school at village Fatehpur Tagga, Dhauj Faridabad. Now, I live at my home. I know Sajid S / o Vakil R / o village Fatehpur Tagga since one year. Sajid is my neighbor. Sajid used to visit at our home then we became friends and started like to each other, used to talk with each other. Two months back about 11:00 P.M. at night of July 2022, Sajid called me in fields near to our house and committed rape against my wishes and threatened me to viral my nude pictures which he is having. Again, on next day Sajid called me in fields at night, committed wrong act

forcibly. Sajid also shows my nude pictures in his mobile and threatened me to eliminate. I didn't tell anything to anyone due to fear. When Sajid harassed me again and again then I told whole thing to my family. Sajid did wrong act with me. Legal action be taken against Sajid. I am recording my statement in front of my father with my wish, without any fear pressure. I have recorded my statement, which is correct. SD/- SD/- Abdul Rehman”

3. Learned counsel for the petitioner submits that the petitioner is in custody since 30.12.2022. Learned counsel has further argued that the petitioner has been falsely implicated in the present FIR as the instant FIR is actually a counter-blast to FIR No.19 dated 24.01.2022 under Sections 343, 506 of IPC and Section 6 of the POCSO Act was registered at the same Police Station i.e. Women NIT, Faridabad, District Faridabad. Learned counsel has further submitted that the private witnesses i.e. victim as also the complainant/father of the victim stand examined. Learned counsel for the petitioner has also urged that the petitioner is a young man aged about 20 years with no criminal antecedents. 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 30.12.2022 whereinafter investigation was carried out & challan was presented on 19.01.2023.

Total 17 prosecution witnesses have been cited out of which the private witnesses i.e. victim as also complainant/father of the victim have been

examined as PW-1 & PW-2 respectively. The culmination of the trial will take its own time. The rival contention of the learned counsel for the parties; regarding the false implication of the petitioner as also the FIR in question being counter blast to FIR No.19 dated 24.01.2022 under Sections 343, 506 of IPC and Section 6 of the POCSO Act was registered at the same Police Station i.e. Women NIT, Faridabad, District Faridabad; 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 case of the either parties. Nothing perceptible 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 02.04.2024 filed by the learned State counsel, petitioner has suffered incarceration for more than 01 year and 03 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 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

April 03, 2024
poonam

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