

2024:PHHC:041156

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

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CRM-M-9225-2024 (O&M)
Date of decision: 21.03.2024

Himanshu

...Petitioner

V/s

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr.Bhupinder 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.19 dated 28.01.2023, registered for the offences punishable under Sections 346 of IPC (offences under Section 343, 376(2)(n), 365 and 506 of IPC added and Section 346 of IPC deleted later on) at Police Station Ram Nagar, District Karnal.

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

“To SHO Sir, Police Station Ramnagar, Karnal. It is requested that I Gaurav Sharma S/o Krishan Sharma, am permanent resident of Shiv Colony Shastri Nagar. My niece Neha D/o Rakesh, resident of Shiv Colony Shastri Nagar, Karnal, who was residing with me for the last 26 years and she is missing from home since yesterday 27/01/2023 at 6.20 PM. We suspect that my niece was, Himanshu S/onot known, resident of Shiv Colony, Shastri Nagar, near Peerbaba, whose mobile number is 9671314271. Till now we were searching on our own but we could not find her, whose appearance was long face, wheatish

complexion, height about 5 feet, Shiv Ji's locket around the neck and her clothes were blue pants, white cap, black shawl, Purple T-shirt. Kindly get my niece searched. Jayoti M. No.9877375192 Sd/- Gourav Sharma Applicant, Gaurav Sharma s/o Krishan Sharma, resident of Shiv Colony, Shastri Nagar (Karnal) 8708980146, 9350007832 dated 28/01/2023."

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 12.04.2023. Learned counsel for the petitioner has further submitted that the petitioner & the victim were in consensual relationship and the present FIR is an outcome of fall out of such relationship. Learned counsel has referred, *in extenso*, to the protection petition (CRWP-1442-2023) filed before this Court by the petitioner as also the victim; prayer clause wherein reads as follows:-

"It is therefore, most respectfully prayed that the instant petition may kindly be allowed and directions may kindly be issued to respondents No.2 and 3 to protect the life and liberty of petitioners, which is endangered at the hands of respondents No.4 to 6 as the petitioners are living together and intend to marry against the wishes of the private respondents."

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 12.04.2023 whereinafter investigation was carried out & challan was presented on 12.05.2023.

Total 14 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 as to whether there was consensual relationship between the petitioner & the victim as also as to whether the FIR in question is an outcome of fall out of such consensual relationship; 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 tangible has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the prosecution evidence. As per the custody certificate dated 20.03.2024 filed by the learned State counsel, petitioner has suffered incarceration for about 11 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

March 21, 2024
poonam

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