

CRM-M-10487-2024

1

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

228

CRM-M-10487-2024

Date of decision:05.03.2024

Anil @ Ajay

....Petitioner

V/s

State of Haryana

....Respondent

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Ravi Kamal Gupta, Advocate as Legal Aid Counsel
for the petitioner.

Ms. Ankita Ahuja, 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.21 dated 08.01.2022, registered for the offences punishable under Sections 323, 342, 363, 366, 376(2)(n), 120-B of IPC and Section 6 of POCSO Act (added later on), Panipat at Police Station Samalkha, District Panipat.

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

“To SHO, Police Station Samalakha Panipat. Sir, it is submitted that I am wife of late Sh. Chandrapal R/o village Budhshyam, District Panipat. I have three children, the eldest of whom is Harsh, younger to him is Ritu and the youngest is Shivani. Yesterday dt. 07.01.2022 I left home for going to work at 8:30 am and my elder daughter Ritu who is aged 17 1/2 years old was at home, when I returned home at evening 6 pm my elder daughter Ritu was not at home. I searched for my daughter Ritu on my own, but could not find her. My girl Ritu's physical characteristics are fair complexion, round face and height of 5 feet 1 inch. There is a cut mark on her left eye, my daughter Ritu was wearing a cream colored suit when she went from home. My daughter Ritu was a class 10th student of village Budhsam. Please search for my daughter Ritu. Applicant Menka, wife of Chanderpal, village Bursham, mobile no. 9996661770 dated 8-1-2022.”

3. Learned counsel for the petitioner has argued that the petitioner was arrested on 02.04.2022 and trial is underway. Learned counsel has referred, *in extenso*, to the testimony of PW-1 (victim) to argue that the case in hand is one of the petitioner and the victim eloping away for performing marriage. Learned counsel has further argued that the private/material witnesses have already been examined and there is no chances of the petitioner influencing the remaining prosecution evidence. It is further argued that the petitioner was aged about 25 years at the time of the alleged offence whereas victim was aged about 17½ years at the time of alleged offence. In this view of the matter, learned counsel has prayed for grant of regular bail.

4. Learned State counsel has opposed the present petition arguing that the allegations raised are serious in nature and thus the petitioner does not deserve the concession of the regular bail. Learned State counsel seeks to place on record custody certificate dated 04.03.2024 in Court, which is taken on record.

5. I have heard counsel for the parties and have gone through the available records of the case.

6. The petitioner was arrested on 02.04.2022 whereinafter investigation was carried and challan was presented on 27.06.2023. Ten prosecution witnesses out of total cited twenty prosecution witnesses already stand examined. The private/material witnesses have since been examined during the course of trial. The rival contention of learned counsel for the parties; as to whether the petitioner and the victim have eloped away to perform marriage and the relationship was a consensual one; 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. 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 custody certificate dated 04.03.2024 filed by learned State counsel, the petitioner has already suffered incarceration for a period of more than 01 year and 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 case.

7. In view of above, the present petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. 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/Illaqah 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 05, 2024
Ajay

Whether speaking/reasoned:Yes/No

Whether reportable:Yes/No