

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

229

CRM-M-10771-2024

Date of decision:06.03.2024

Satish

....Petitioner

V/s

State of Haryana

....Respondent

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Sanjeev Majra, 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.789 dated 31.08.2022, registered for the offences punishable under Sections 120-B, 363, 366-A, 376(3), 376(2)(n), 465, 466, 471 of IPC and Section 6 of POCSO Act at Police Station Aasandh, District Karnal.

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

“Subject: Complainant regarding going somewhere after leaving home without informing. It is requested that I Murti W/o Late Sh. Om Parkash, Caste Dhamar, is resident of village Salwan, District Karnal, That name of my girl is Anjani, age 15 years and height approx. 5 feet, colour fair. Which is missing MUKUL SHAH from the date 28.08.2022. I went to the farm to do my work. So around 1 o'clock in the afternoon I came home, I didn't find my girl, I asked around my neighborhood but I didn't find my girl. Then I thought that she may have gone to the relatives, so then I called all the relatives, but my girl could not be found there either. My girl before leaving house had video called on some unknown number and messages through Whatsapp, but girl has deleted that numbers. We have got no information about them. Till now I have been searching for my girl, but I have no information. My daughter is minor. I am afraid that something untoward might happen to my daughter. She has also taken Rs

70 thousand with her which were kept in house, because we sold our buffalo, amount pertains to that. She has also taken Aadhaar Card, Birth Certificate and copy of bank along with her. Therefore, I request you sir, that register the case and take legal action while investigating and help me to find my girl. Thank You. Dated 31.08.2022 LTT Murti Applicant. Murti W/o Late Sh Om Parkash, resident of Salwan, District Karnal. M 9896499826.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 07.12.2022; investigation in the case is already complete and challan stands presented. Learned counsel has referred to the statement made by the victim under Section 164 of Cr.P.C. on 03.11.2022 as also her testimony recorded as PW-1, to argue that the petitioner as also the victim had performed marriage and they had also filed a protection petition before this Court vide CRWP-10012-2022, which was disposed of on 19.10.2022. It has been further argued that the complainant/mother of the victim, when recorded as PW-3, has turned hostile. On that premise, learned counsel has argued that from the evidence on record, it does not appears to be a case of conviction and in all likelihood, trial is likely to result in acquittal of the petitioner. 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 05.03.2024 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 07.12.2022 whereinafter investigation was carried out and challan was presented on 03.01.2023. Total 19 prosecution witnesses have been cited and culmination of the trial will take its own time. The rival contention of learned counsel for the parties; regarding the weightage required to be attached to the testimony of the victim (when recorded as PW-1) to the effect that the petitioner and the victim had performed marriage as also the statement made by the victim under Section 164 of Cr.P.C.; 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 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 custody certificate dated 05.03.2024 filed by learned State counsel, the petitioner has already suffered incarceration for a period of about 01 year and 04 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/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 06, 2024
Ajay

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