

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

216

CRM-M-10730-2024 (O&M)

Date of Decision: 13.03.2024

Atender

.... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Sukesh Kumar Jindal, Advocate
for the petitioner.

Ms. Mahima Yashpal, DAG, Haryana.

SUMEET GOEL, J. (Oral)**CRM-11000-2024**

This is an application for placing on record the complete copy of the order dated 03.11.2023 (Annexure P-4).

Application is allowed, as prayed for.

CRM-M-10730-2024

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.388 dated 07.05.2022, registered for the offence punishable under Section 365 IPC (during investigation, Section 365 IPC was deleted, Section 6 of the POCSO Act, 2012 and Sections 363, 366, 376(2)(n) & 376(3) IPC were added) at Police Station Chandni Bagh, District Panipat.

2. Learned counsel for the petitioner has argued that the petitioner is in custody since 12.05.2022. He further submits that during the course of trial; PW-1 (victim), PW-2 (father of the victim/complainant) as also PW-3 (mother of the victim) has turned hostile and thus, the trial is not likely to culminate

into conviction. Thus regular bail is prayed for.

3. Learned counsel for the State opposed the present petition arguing that the allegations raised are serious in nature and thus the petitioner does not deserve the concession of regular bail.

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

5. The petitioner was arrested on 12.05.2022 whereinafter investigation was carried out and challan was presented on 21.06.2022. Total 17 prosecution witnesses have been cited and the material/private witnesses namely, the victim, father of the victim/complainant as also mother of the victim stands examined. The culmination of the trial will take its own time. The rival contentions of the learned counsel for the parties, regarding the weightage required to be attached to the testimony of the hostile witnesses, shall be gone into during the course of trial. This Court does not deem it appropriate to delve into these rival contentions, at this stage, lest it may prejudice the trial. No tangible material has been brought on record to show the likelihood of the petitioner absconding from the process of justice or interfering with the remaining prosecution evidence. As per the custody certificate dated 12.03.2024 filed by learned State counsel, the petitioner has suffered incarceration for about 01 year and 10 months and is not shown to be involved in any other case. Suffice to say further detention of the petitioner as an under trial is not warranted in the factual conspectus of the present case.

6. 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.

7. 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.

8. Ordered accordingly.

9. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.

10. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

13.03.2024

D.Bansal

(SUMEET GOEL)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes / No
Yes / No