

2024:PHHC:053845

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

209

CRM-M-11001-2024
Date of decision: 22.04.2024

PAWAN @ BAWA

....Petitioner

V/s

STATE OF HARYANA

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr.Vijay Dahiya, 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.217 dated 17.04.2023 registered for the offences punishable under Sections 365 of IPC (Section 376(2)(n) of IPC and Section 6 of the Prevention of Children from Sexual Offences Act, 2012 were added later on) at Police Station Sonipat City, District Sonipat.

2. The case set up in the FIR in question (as set out by the petitioner in the present petition) is as follows:-

“To, the S.H.O Saheb, Police Station- Sonipat City. Sir, it is requested, that I Mukesh S/o Sh. Mam Chand is a permanent resident of West Ram Nagar, Sonipat. I got three daughters, elder daughter is 17 years and 6months, second daughter is 14 years old and youngest is 6 years. Eldest daughter left the school 3 years ago due to mental illness when she was in 10th standard and reside at home and second daughter study in 7th standard in Mahan School. On 16.04.2023 around 2:30 pm both the daughters left home saying that they are going to the market. When they didn't return home till evening, I along with my wife searched everywhere but could not trace them. I had a suspicion

that they might have been kidnapped by some unknown person. The where about of them are as - Eldest is around 17 years, 4 feet 8 inch height, round face, slim body, fair colour and she was wearing white top and black jeans trouser, white colour cloth shoes and second daughter is around 14 years, 4 feet 8 inch height, round face, whitish colour, strong build body, cut on the lip and she was wearing white shirt, black jeans and pink colour shoes. She is also wearing iron (kada) bracelet and artificial pearls string (Mala). I don't want to give this information in the newspaper or television. I have given information to you and request to take action. Thank you. Applicant -sd- Mukesh (M-99910 21324). Date 17.04.2023”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 24.04.2023. Learned counsel for the petitioner has further argued that the petitioner has been falsely implicated into the FIR in question. Learned counsel for the petitioner has further contended that all the private/material witnesses stand examined and, thus, there is no likelihood of the petitioner interfering with the prosecution evidence. Learned counsel for the petitioner has further submitted that there is no medical evidence available on record to substantiate the case of the prosecution. 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 24.04.2023 whereinafter investigation was carried out & challan was presented on 08.06.2023.

witnesses stand examined and one has been given up. It is not in dispute that all the private/material prosecution witnesses stand examined. The rival contention of the learned counsel for the parties; as to whether the petitioner has been falsely implicated into the FIR in question and the weightage required to be attached to the testimonies of the witnesses; 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 the custody certificate dated 19.04.2024 filed by the learned State counsel, the petitioner has suffered incarceration for about 11 months and 26 days & 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/Illaqa 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 22, 2024
poonam

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