

2024:PHHC:033079

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

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**CRM-M-11150-2024 (O&M)
Date of decision: 07.03.2024**

SANDEEP KUMAR

....PETITIONER

V/s

STATE OF HARYANA

....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr.Keshav Pratap Singh, Advocate with
Mr. Rajat 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.678 dated 21.10.2023, registered for the offences punishable under Sections 376 and 506 of IPC Police Station, City Ballabgarh, District Faridabad.
2. The case set up in the FIR in question is as follows:-

“The SHO, Police Station, City Balabgarh. Sir, It is stated that I am resident address and of live the at aforesaid home. I married. I have two children; daughter aged daughter 25.9.2023, is I 6 am one years, second years old. On dialing Phone 3 was No. 9926391410 Sheetal. By phone with of not my friend connecting Sheetal, it my was connected on mobile No.9557030075 and I started talking with him. talked with him about the I job. Sandeep told me that I do job, I would get you recruited on a job. Then we both developed friendship with each other. We both started talking on phone. I told him that my husband is in jail. On 8th October, 2023 in the noon at about 11.00 AM, at Palwal I called him (Sandeep) to sitting in the meet. We Restaurant after had talked. He stated that now job is not available for service. I said, no matter, after this we had been talking on phone. After this, on 20.10.2023, in the evening at about 7 PM, I had made a phone call and Sandeep was staying the house of his Mausai at at Faridabad. I stated are free, talk with that he will that if you me. He stated, talk later. After

this in the night at 8 PM received call from Sandeep. him that we should talk sitting somewhere. After I I told while this Sandeep stated that he would take leave tomorrow. Today on 21.10.2023, I told Sandeep to come at 11.00 A.M. that after sitting at I will talk Ballabhgarh. In the noon time, at about 12.30 PM, I met with Sandeep at Bus Stand, then we both went in Oyo Hotel Aapka Apna Naitik Chawla Colony, Ballabhgarh. While sitting there we started talking and there he committed rape with me against my wishes forcibly and he threatened me that if I disclose to anyone in this regard, it will not be good me, he would kill me. After this, I came out and I made a call at No.100 and narrated the entire facts. After some time police had come there and from there the police brought me station. I to the police want legal action against Sandeep. I have got my statement recorded with my own free will without any pressure anyone, which is correct. Rashim, COUNSEL ATTESTED SNAGITA (LEGAL) SHARMA of SD- AID DATE 21.10.2023, ATTESTED KAMLESH ASI, P.S. CITY, BLB DATE Applicant No.9255200602, Proceedings" Mukesh 21.10.2023. Mobile 8307057476 Police proceedings."

3. Learned counsel for the petitioner has argued that the petitioner was arrested on 21.10.2023 and investigation in the case already stands completed. Learned counsel has referred, *in extenso*, to the call detail log made between the petitioner and the victim to argue that the relationship between them was consensual in nature. Learned counsel has further relied upon the hotel entry register to argue that the victim had voluntarily accompanied the petitioner to the hotel as is evident from the victim signing the register in question even at the time of check-in as also check-out. Thus, regular bail is prayed for.

4. 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 accused was arrested on 21.10.2023 whereinafter investigation was carried out & challan was presented on 01.12.2023. Total 19 prosecution witnesses have been cited and the culmination of trial will take its own time. The rival contention of the learned counsel for the parties as to whether the relationship between the petitioner and the victim was consensual in nature 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 prosecution evidence. As per the custody certificate dated 07.03.2024 filed by the learned State counsel, petitioner has suffered incarceration for about 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 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

March 07, 2024
poonam

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No