

216 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-13526-2023

Date of Decision : 05.02.2024

Ajay Kumar

...Petitioner

Versus

State of Punjab

....Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. B.S. Bhalla, Advocate for the petitioner.

Mr. Hemant Aggarwal, AAG, Punjab.

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.189 dated 22.10.2022 registered for the offences punishable under Sections 306, 376 IPC, 1860 and under Section 4 of Protection of Children From Sexual Offences Act (Amended) 2019 at Police Station Majitha, District Amritsar Rural.
2. The case set up in the FIR in question is as follows:-

"Statement of Neelam wife of Late Darshan Lal r/o Supariwind age about 46 years M.No. 9041438243. It is stated that I am resident of above said address and do a domestic work. My husband Darshan Lal died about 7 years back and I have got four children. The eldest daughter is Renu, then Seema, then boy Deepu are married. My son Deepu alongwith his family is residing in Sultanpur Lodhi. I alongwith my daughter Parveen am residing in village Supariwind. Her age is about 70 years. On 20.10.2022 at about 9.00 am I had gone for a labour job at village Wadala and came back around 6.00 pm and my neighbours told me that some boy came in our absence and we had seen them and he ran away after finding us there. I made enquiry about this from my daughter Parveen but she remained silent and was under stress. On 21.10.2022 I had gone to take my pension from Bank

at Bathinda and when I came back around 2.00 PM and found that my daughter was hanging on the ladder, the roof of the room and I raised alarm at people gathered over there and Ravi Chauhan son of Bhagwan of our village brought down my daughter but she had died by that time. I am sure the boy who had come to our house on 20.10.2022 is Ajay son of Bhola r/o Mouri Mohalla Sultanpur Lodhi. He is from our village and earlier also my daughter told that she was being harassed by him and now I am sure that he did some wrong with my daughter on 20.10.2022 and because of that my daughter Parveen committed suicide. Till now I did not inform the police and now I left my relatives near the death body of Parveen and was coming along with Ravi to give information when you met. Statement given which is correct. Ajay has done wrong with my daughter Parveen and legal action be taken against him and justice be given to me. RTI/-Neelam."

3. Learned counsel for the petitioner submits that the petitioner was arrested on 23.10.2022, whereinafter, investigation was carried out and challan has been presented. Learned counsel for the petitioner has relied upon certain photographs to argue that in fact there was a consensual relationship between the petitioner and the deceased which was not to the liking of the family members of the deceased and it is on this account that the deceased had committed suicide. It has been further argued by learned counsel for the petitioner that offence(s) under POCSO Act is not made out against the petitioner as the date of birth of the victim was 02.04.2003 as per her own school record and accordingly, she was aged about 19 years and 6 months at the time of alleged incident. Thus, regular bail has been 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 accused was arrested on 23.10.2022 whereinafter, investigation was carried out and challan has been presented on 23.10.2022. Total 16 prosecution witnesses have been cited and, thus, culmination of the trial will take its own time. As per the custody certificate dated 02.02.2024, filed by the learned State counsel, the petitioner has already suffered incarceration for more than 1 year and 3 months & is not shown to be involved in any other criminal case. The rival contention made by the learned counsel for the parties regarding the veracity of consensual relationship and/or the family of the deceased not liking this relationship between the petitioner and the deceased will 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 case of either parties. No tangible material has been brought forward before this Court to indicate likelihood of the petitioner absconding from the process of justice or interfering with the remaining prosecution evidence. Suffice to say, further detention of the petitioner as an undertrial is not warranted.

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 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/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

February 05, 2024
ps

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