

2024:PHHC:044406

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

222+104

CRM-M-13199-2024 (O&M)
Date of decision: 03.04.2024

DEEPAK

...PETITIONER

V/s

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Lakhwinder S. Lakhanpal, 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.022 dated 23.02.2023 registered for the offences punishable under Section 506 of IPC and Section 4 of the Prevention of Children from Sexual Offences Act, 2012 at Police Station Women Central, Faridabad, District Faridabad.

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

“To, SHO Sahib, Women Police Station Central, Faridabad. Subject: application regarding registration of the case and for taking legal action against accused Deepak resident of Carnal Vihar, Kheri Road, Old Faridabad. Sir, it is requested that I applicant Sanjana wife of Sh.Kamal Singh is permanent resident of House. No.52, Gali No.3, Near R.S. Vidya Mandir School, New Indra Complex, Kheri, Faridabad and submits as under:

1. That we are poor person and my husband is working a private company I have two daughters namely Sania aged about 17 years, and Saloni aged about 16 years and I am doing work of selling fast food and

Filter water in front of my house, with which we are able to survive. 2. That the above said Deepak used to take water from me. Two years ago when my daughter Sania was 15 years old, then accused Deepak started talking with my minor daughter Sania and accused Deepak entangled my daughter into his sweet talk. When we came to know about this, then we made accused understand and also called his parents and informed them. The parents of accused Deepak assured that now Deepak will not have any relation with their daughter from now. But Deepak started following my daughter while coming to school and started threatening my daughter that in case you would not talk with him, then he would kidnap your younger daughter Saloni and kill her, due to which my daughter Sania got scared and whenever accused called my daughter Sania, she would go away due to fear. 3. That on 11.2.2023 at about 12 O'clock in night, accused Deepak came to meet my daughter in gallery and accused Deepak gave her chocolate and after eating said chocolate my daughter became unconscious. Thereafter accused Deepak forcibly raped my daughter without her consent and thereafter ran away from the spot. Thereafter my daughter came to room and slept. The next day when my daughter did not wake up till around 11 O'clock, we woke her up. She got up scared and frightened and started crying and when we asked her about the reason of crying, then she told entire incident of the night to me and my husband. Thereafter, we went to police station Kheri Pul Faridabad for lodging report against accused, but police did not take any action and kept on misleading us by sending us one or the other in the police station and the lady officer who was on the desk was also mislead us that come today or tomorrow and today the lady officer refused to take any action and threatened us and sent us away. 4. That in this regard, on 14.2.2023, I went to Women Police Station Sector 16, Faridabad for giving complaint against accused, but the police refused to receive my complaint. Hence it is requested to your goodself that after registering a case against the accused person for the atrocities on my minor daughter and take strict legal action and justice be provided to us. I shall be highly thankful. Sd/- Sanjana wife of Sh.Kamal Singh resident of House No.52, Gali No.3, Near R.S. Vidya Mandir School, New Indra Complex, Kheri, Faridabad.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 03.03.2023. Learned counsel for the petitioner has further argued that there was consensual friendship between the petitioner and the victim which was not to the liking of the family of the victim and therefore the petitioner has been falsely roped into the FIR in question. In order to buttress his argument, learned counsel for the petitioner has relied upon a photo and whatsapp chat (copies whereof have been appended as Annexure P-2). The petitioner is a young man aged about 23 years with no criminal antecedents. 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 03.03.2023 whereinafter investigation was carried out & challan was presented on 16.03.2023. Total 15 prosecution witnesses have been cited and culmination of the trial will take its own time. The rival contention of learned counsel for the parties; as to whether there was consensual friendship between the petitioner and the victim which was not to the liking of the family as also the veracity/weightage required to be attached to the photo and whatsapp chat (copies whereof have been appended as Annexure P-2 with the present petition); 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 02.04.2024 filed by the learned State counsel, the petitioner has suffered incarceration for about 1 year and 1 month & 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/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

April 03, 2024
poonam

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