

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-13643-2024

Date of decision:21.03.2024

Rohit Nagger @ Lalit

....Petitioner

V/s

State of Punjab

....Respondent

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Deepak Arora, Advocate for the petitioner.
Mr. Anup Singh 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.150 dated 16.09.2023, registered for the offences punishable under Sections 363, 366-A, 376 of IPC read with Section 4 of POCSO Act at Police Station Division No.2, District Ludhiana.
2. The case set up in the FIR in question is as follows:-

“It is submitted that I am Poonam W/o Gambar resident of Kucha No. 9 Near Neel Shop Mohalla Prem Nagar Ludhiana and I have got two children. My daughter Kiran age 15 years and a boy Rohit Nagar S/o Sonu Bhunda Resident Kuncha No. 9 Mohalla Prem Nagar Ludhiana had got my daughter in his house and when I went to get my daughter Kiran from his house then Rohit Nagar said that he had performed court marriage with Kiran, my daughter Kiran's aged about 15 years. My daughter Kiran may kindly be sent to my home and appropriate legal action may kindly be taken against Rohit Naggar. Sd/- Poonam signed in Hindi 9888243239, 7973647570.”
3. Learned counsel for the petitioner has argued that the petitioner is in custody since 22.09.2023. Learned counsel has relied upon the factum

of a protection petition having been filed by the victim and the petitioner before Sessions Court, Ludhiana as also photographs (copies whereof have been annexed as Annexures P-2 & P-3 with the present petition) to argue that there was consensual relationship between the petitioner and the victim which was not to the liking of the family of the victim & it is on this account, instant FIR has been got registered against the petitioner. In this view of the matter, learned counsel has prayed for grant of regular bail.

4. Learned State counsel has opposed the present petition arguing that the allegations raised are serious in nature and thus the petitioner does not deserve the concession of the regular bail. Learned State counsel seeks to place on record custody certificate dated 20.03.2024 in Court, which is taken on record.

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

6. The petitioner was arrested on 22.09.2023 whereinafter investigation was carried out and challan was presented on 13.10.2023. 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 relationship between the petitioner and the victim as also whether the FIR in question is outcome of such relationship being not to the liking of the family of the victim; 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 custody certificate dated 20.03.2024 filed by learned State counsel, the petitioner has suffered incarceration for a period of about 06 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 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.

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 21, 2024
Ajay

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