

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

230

CRM-M-13657-2024 (O&M)

Date of decision:24.04.2024

Vicky Kumar

....Petitioner

V/s

State of Punjab

....Respondent

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. A.S. Salar, 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.0103 dated 21.07.2023, registered for the offences punishable under Sections 363, 366-A, 376-D, 376(2)(N) & 506 of IPC and Section 6 of POCSO Act at Police Station Division 4, District Patiala.
2. The case set up in the FIR in question (as set out in the present petition by the petitioner) is as follows:-

“Statement of Daljit Kaur wife of Randeep Singh, r/o House No.77, Gali No.01, Gurbakhsh Colony, Patiala, aged about 34 years, phone No.79733-53156. Stated that I am resident of said address and I do household chores. My marriage was solemnized in the year 2004. I have two children, elder is daughter Simran, who was born on 08.08.2008 and son Maninder Singh, whose age is about 13 years. My daughter Simran studies in 8th Class in Govt. Girls Senior Secondary Smart School, Power Colony, Patiala. From about 2-3 days ago, my daughter Simran was going to school without her school bag. When I asked my daughter Simran about the school bag, my daughter started saying that the bag is lying in the school. When I went to Simran's school with my husband Randeep Singh and enquired about the bag from the Class Incharge of Simran, bag was not found there. Then I asked my daughter Simran again about the bag and she said that by putting some clothes in the bag, the bag was given to a boy named Harpreet Singh. I asked my daughter Simran that who is Harpreet, at this, Simran told me that Harpreet is her friend on Instagram, whose Instagram ID is Harpreet_Singh8hk. But she does not have any phone number or address of Harpreet and she can recognize him only by

face. His eyes are blue and he wears a turban on his head. Her bag is with him. When I asked my daughter why did she give the bag to Harpreet, my daughter Simran suddenly started crying and told me that Harpreet had threatened her and pressurized her to come up by putting clothes in the bag. Due to fear, few weeks ago, she by putting clothes in her bag, gave it to that boy named Harpreet opposite to the school. My daughter Simran also told me that the boy named Harpreet sometimes used to take her outside the school on his motorcycle to some unknown place, where the boy named Harpreet used to make physical relations with my daughter Simran without her consent and threatened to kill my girl Simran and her family members if she told anyone about it. Due to that reason, my daughter Simran did not tell anyone about the said incident. Even today itself, if we had not gone to her school because Simran did not have the school bag with her, then we would not have known the whole thing, but the boy named Harpreet threatened my daughter Simran and forced her to make physical relations without her consent. Hence, to report the matter, I alongwith my husband Randeep Singh was going to police station but you alongwith police party met us at Battianwala Chowk, near old Bus Stand, Patiala. I got my statement recorded before you, read it, heard it and the same is correct. Sd/- Daljit Kaur”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 05.08.2023. Learned counsel has further argued that the FIR in question came to be registered on 21.07.2023 wherein the petitioner was not named as an accused, subsequently a supplementary statement was made by the mother of the victim on 05.08.2023 wherein it is stated that on her own enquiry, she has come to know that the petitioner was also one of the person who had assaulted the victim. Thus, it has been argued that no proper test identification parade was carried out by the prosecution and the mother of the victim has improved her statement by way of the supplementary statement made on 05.08.2023. 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

CRM-M-13657-2024

3

to place on record custody certificate dated 24.04.2024 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 05.08.2023 whereinafter investigation was carried out and challan stands presented on 18.10.2023. Total 29 prosecution witnesses have been cited and culmination of the trial will take its own time. The rival contention of learned counsel for the parties; regarding the weightage required to be attached to the factum of the petitioner not having named in the FIR and the name of the petitioner surfacing in the supplementary statement made by mother of the victim made on 05.08.2023; 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. The petitioner is a young man aged 19 years of age with no criminal antecedents. As per custody certificate dated 24.04.2024 filed by learned State counsel, the petitioner has already suffered incarceration for a period of more than 08 months and 20 days.

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/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 24, 2024
Ajay

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