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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-14369-2024 (O&M)

Date of Decision: 01.04.2024

Sakib Khan

.. Petitioner

Vs.

State of Haryana

..Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Abhimanu Jangra, 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.322 dated 04.07.2022, registered for the offences punishable under Sections 363 and 366-A of IPC and Section 6 of POCSO Act, 2012 at Police Station Saran, District Faridabad.

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

“To Chowki Incharge, Parvatiya Colony, Faridabad. Sir, It is stated that 1, Sangeeta W/o Kahar Singh alias Kairi resident of House No.3, Mangla Enclave Part 1, Near Ram Phal Mandi, Faridabad. I have four children, one of whom is a boy and three are girls. My eldest daughter, who is 16 years old, lives at home. On 03.07.2002, at around 7 PM, she had gone to the market to buy some goods and has not returned home till now. I myself have been searching at every possible place, but till now there is no trace of my daughter. I have tried to contact her several times on her mobile number-9540629486 but her phone is switched off. I suspect that someone has hidden my daughter. Hence, I have come to file a report about her missing. The appearance of my girl: wheatish complexion, round face, slim body, height about 5 feet 4 inches and while going, she was wearing a pink coloured plazlo, white coloured chunni and slippers. Please search for my girl. Thanks RTI-Complainant Sangeeta Mo. 7835883856. XXXX”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 06.07.2022. Learned counsel for the petitioner has further argued that the petitioner was falsely implicated in the FIR in question as the petitioner was earlier making complaints against the father of the victim for selling *ganja*/intoxicants in the locality. Learned counsel for the petitioner has further argued that all the private witnesses stand examined during the trial proceedings and only official witnesses are left. Thus, regular bail is prayed for.

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.

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

6. The petitioner was arrested on 06.07.2022 whereinafter investigation was carried out & challan was presented on 26.08.2022. Total 21 prosecution witnesses have been cited out of which all the private witnesses i.e. total 5 witnesses (including the victim and the mother of the victim/complainant) have been examined. It is not in dispute that, as on today, only the official witnesses remain to be examined. The rival contention of the learned counsel for the parties as to whether the petitioner has been falsely implicated in the case or not 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. The petitioner is a young man aged 23 years of age with no criminal antecedents. 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 28.03.2024 filed by the learned State counsel, the petitioner has suffered incarceration for about 01 year and 9 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 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.

01.04.2024

(SUMEET GOEL)
JUDGE

Jasmine Kaur

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No