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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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Date of decision:18.04.2024

Gurnam Singh

....Petitioner

V/s

State of Punjab

....Respondent

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Hardial Singh Batth, Advocate for the petitioner.
Mr. Anup Singh AAG Punjab.
Mr. Santosh Kumar, Advocate for the complainant.

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.240 dated 27.10.2023, registered for the offences punishable under Sections 376 at Police Station City Rupnagar, District Rupnagar.
2. The case set up in the FIR in question (as set out in the present petition by the petitioner) is as follows:-

“Copy of Statement Statement Jyoti daughter of Sudagar Singh resident of village Dargah Shah PS Sadar Rupnagar, Distt. Rupnagar aged about 16 years, mobile 8195815829. Stated that I am resident of aforesaid address and do domestic work. My father has died and my mother Zero Devi aged about 55 years is deaf and dumb but by living with me continuously she is able to tell through nodding and I am able to understand her everything. Yesterday at about 9 AM my mother went from our house to Ropar for begging and returned at 6 PM. Her physical condition was not okay, she was weeping. When I asked her then she told by nodding that about 3 PM when I was near the Shop of Gyani near Nangal Chowk, Ropar after taking Karyana items then Gurnam Singh son of Babu Ram resident of Dargah Shah who is running barbar shop nearby asked me to sit her on motorcycle and told that I am going to village I will alite you at your home. But he in place of taking my mother to village rather taken to Nanakpura village forest and there committed rape with my mother. When

we went to asked Gurnam Singh about this then he was found missing from his house. Gurnam Singh did forcible act with my mother. Required action may be taken against him. I brought you to hospital and got recorded my statement and heard the same is correct. RTI Jyoti. Attested by Sd/- Bholi Devi, RTI Zero Devi, attested Sd/- Navdeep Kaur SI PS City Rupnagar, dated 27.10.2023.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 30.10.2023. Learned counsel has further referred, *in extenso*, to the testimonies of PW-6 (victim), PW-7 (daughter of the victim) as also PW-8 (relative of the victim) to argue that the material private prosecution witnesses have turned hostile and hence in, all likelihood, the trial is not likely to culminate into conviction of 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 16.04.2024 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 30.10.2023 whereinafter investigation was carried out and challan stands presented on 22.12.2023. Total 15 prosecution witnesses have been cited out of which 09 have been examined. The rival contention of learned counsel for the parties; regarding the weightage required to be attached to the testimonies of the hostile witnesses i.e. PW-6 (victim), PW-7 (daughter of the victim) as also PW-8 (relative 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 remaining prosecution evidence. As per custody certificate dated 16.04.2024 filed by learned State counsel, the petitioner has already suffered incarceration for a period of more than 05 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/Illaqha 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

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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 18, 2024
Ajay

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