



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

213

CRM-M-14342-2024

Date of decision: 05.08.2024

Aamir alias Mohsim alias Aamir Khan

....Petitioner

V/s

State of Haryana & others

....Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. S.S. Nain, Advocate for the petitioner.
Ms. Priyanka Sadar, AAG Haryana.
None for respondent No.2 and 3.

SUMEET GOEL, J. (Oral)

Office note indicates that respondent Nos.2 and 3 stands served. However, none has caused appearance on their behalf despite the case having been passed over once.

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.194 dated 20.04.2023, registered for the offences punishable under Sections 363 and 366-A of IPC, later on challan filed under Sections 366 and 376 of IPC at Police Station Dabua and District Faridabad.
2. The case set up in the FIR in question (as set out in the present petition by the petitioner) is as follows:-

“To the Police Post incharge Sir, Sainik Colony, Faridabad, it is requested that I Sharif son of Vaseer, resident of village Gogipur, Police Station Nuh, District Mewat at present resided with family House No.A-122, Sainik Colony, Sec.49, I have six children, that my second No. daughter Anisha, who is 16 years old, had gone from home on 19.04.2023 at around 2.00 pm to drop her brother Sehwarz to DAV, School, Sector-49, has not returned home yet, for whom we searched everywhere on our own. But she was not found anywhere whose features are as follows: Fair complexion,



cheeks and face, body height is 5 feet 2 inches, age is 16 years, and she is wearing a yellow suit and salwar. Now we have come to know that my daughter Anisha has been taken away by Moshin son of Ghaffar, resident of village Jogipur, District Mewat, with himself. We are afraid of some untoward incident happening to her, please search for my daughter Anisha, applicant Shairf, 9050938078 date 20.04.2023.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 24.04.2023. Learned counsel has further referred, *in extenso*, to the statement made by the victim under Section 164 of Cr.P.C. on 24.04.2023, to argue that no inculpatory statement was made by the victim against the petitioner. It has been further argued that the petitioner has been falsely implicated into the FIR in question on account of the family of the victim not agreeing to the consensual friendship between the petitioner and the victim. 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 02.08.2024 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 24.04.2023 whereinafter investigation was carried out and challan stands presented on 01.07.2023. Charges in the present case were framed on 30.10.2023. Total 25 prosecution witnesses have been cited but none has been examined till date.

Therefore, it is indubitable that the trial will take its own time to conclude.



was consensual friendship between the petitioner and the victim which was not liking to the family of the victim as also the weightage required to be attached to the testimony of the victim under Section 164 of Cr.P.C.; 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 young man aged about 23 years. As per custody certificate dated 02.08.2024 filed by learned State counsel, the petitioner has suffered incarceration for a period of more than 01 year and 03 months. Further, as per the custody certificate the petitioner is shown to be involved in another FIR No.143/2019 registered on 21.07.2019 under Section 380 of IPC, but, in considered opinion of this Court, this factum would not be sufficient to dis-entitle the petitioner for the regular bail in the FIR in question. 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

August 05, 2024
Ajay

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