

241

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-S-1222-2024 (O&M)

Date of Decision: 24.04.2024

Sukhwinder @ Sukhvinder

.. Appellant

Vs.

State of Haryana and another

..Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Vikas Bishnoi, Advocate for the appellant.

Ms. Priyanka Sadar, AAG, Haryana.

None for respondent No.2.

...

SUMEET GOEL, J. (Oral)

1. Present appeal has been filed under Section 14-A of the Scheduled Caste & Scheduled Tribes (Prevention of Atrocities) Act, 1989 for grant of regular bail to the appellant in case bearing FIR No.721 dated 17.09.2023, registered for the offences punishable under Sections 363 and 366-A of IPC (Sections 201, 376, 376(3), 376(D) and 420 of IPC and Section 4 of POCSO Act, 2012 and Section 3 of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 were added later on) at Police Station Azad Nagar, District Hisar.
2. The case set up in the FIR in question (as set out by the appellant in the present appeal) is as follows:-

“To, The Incharge Police Post Mangali, District Hisar. Respected Sir, it is requested that I, Rajrani W/o Babu Lal, is resident of Mangali Aklan. I have two children. Elder one is Jatin and younger to him is daughter Nisha aged about 15 years. My daughter Nisha and her friend Monika D/o Gulab Singh, R/o Mangali Mohabbat, Hisar had gone to Government Sr. Sec. School, Mangali, Hisar at about 8:00 am on

16.09.2023. That my daughter Nisha and her friend Sonia had not returned to home from school. That Nisha and her friend Monika has suspicion on Aditya R/o Fatehabad. That my daughter Nisha and her friend Monika was enticed away by Aditya on the pretext of marriage and took away my daughter Nisha and her friend Monika. I have full suspicion that my daughter and her friend Monika D/o Balraj Odh, R/o Mangali Anklan is also with her. My daughter Nisha and her friend Monika be traced out. Legal action be taken against Aditya R/o Fatehabad. Sd/- Raj. Raj W/o Babu Lal, R/o Mangali Aklan, Hisar. Dated 17.09.2023. Mob. No.8307142228.”

3. Learned counsel for the appellant has argued that the appellant is in custody since 21.09.2023. Learned counsel for the appellant has further argued that the victims, in their statements under Section 164 of Cr.P.C., have not levelled any specific allegations against the appellant (herein). Learned counsel for the appellant has further argued that the appellant has been falsely implicated into the FIR in question as the appellant was a friend of co-accused, namely, Sunil. Thus, regular bail is prayed for.

4. Learned State counsel has opposed the present appeal arguing that the allegations raised are serious in nature and thus the appellant 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 appellant was arrested on 21.09.2023 whereinafter investigation was carried out and challan stands presented on 22.11.2023. Total 31 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 the weightage required to be attached to the statements made by the victims under Section 164 of Cr.P.C. and as to whether the appellant has been falsely implicated into the FIR in question on account of his being a friend of Sunil; shall be gone into during the course of trial. This Court

this stage, lest it may prejudice the trial. Nothing tangible has been brought forward to indicate the likelihood of the appellant absconding from the process of justice or interfering with the prosecution evidence. As per custody certificate dated 23.04.2024 filed by learned State counsel, the appellant has already suffered incarceration for a period of more than 07 months & is not shown to be involved in any other case. Suffice to say, further detention of the appellant 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 appeal is allowed. Appellant is ordered to be released on regular bail on his furnishing bail/local surety bail bonds to the satisfaction of the concerned learned CJM/Duty Magistrate. However, in addition to conditions that may be imposed by the concerned learned CJM/Duty Magistrate, the appellant shall remain bound by the following conditions:-

- (i) The appellant shall not mis-use the liberty granted.
- (ii) The appellant shall not tamper with any evidence, oral or documentary, during the trial.
- (iii) The appellant shall not absent himself on any date before the trial.
- (iv) The appellant shall not commit any offence while on bail.
- (v) The appellant shall deposit his passport, if any, with the trial Court.
- (vi) The appellant 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 appellant 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 appellant.

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.

24.04.2024

Jasmine Kaur

(SUMEET GOEL)

JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No