

220

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-15431-2024 (O&M)
Date of Decision: 02.05.2024

DEVI DAYAL

.. Petitioner

Vs.

STATE OF HARYANA AND ORS.

..Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Karan Singh, Advocate for the petitioner.

Ms. Priyanka Sadar, AAG, Haryana.

Mr. Rampal Kaushik, Advocate
for respondents No.2 and 3.

...

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.570 dated 27.09.2023, registered for the offences punishable under Sections 363 and 366-A IPC (Sections 376(2)(n), 328, 506 and 34 IPC and Section 6 of POCSO Act added later on) at Police Station Adampur, District Hisar.
2. The case set up in the FIR in question (as set out by the petitioner in the present petition) is as follows:-

“To, The SHO, Police Station Adampur. Sir, It is requested that I, Vishnu son of Sh. Prabhu Ram is the resident of Bhana, Tehsil Mandi Adampur, District Hisar and use to work as labourer. We are 6 brothers-sisters, five sisters and is one brother. My younger sister Meena Kumari whose date of birth is 20.10.2005, who is minor, that yesterday on 26.09.2023 in noon at about 01.00 PM my sister Meena Kumari went away from house without telling to anyone. After that, I searched for my sister Meena Kumari in my neighborhood and I came to know that unknown person whose mobile No.8295792441 has been taken away with him my sister Meena Kumari on the pretext of marriage. Therefore, I request you to trace the unknown person and the said mobile number and take legal

action against him and get my sister Meena Kumari recovered. It will be very kind of you. Appearance Wheat complexion, round face, black long hair, normal body, wearing government school dress and black shoes, height about 5 feet 3 inches, qualification 11th. Thank you. Date-27.09.2023. SD/- Vishnu Applicant Vishnu son of Shri Prabhu Ram resident of Bhana Tehsil Mandi Adampur District Hisar Mobile No.9813980625.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 28.02.2024. Learned counsel for the petitioner has further argued that the petitioner had in fact married the victim on 30.10.2023 upon her attaining the age of majority. Learned counsel for the petitioner has further relied upon the affidavit sworn in by the complainant/brother of the victim, father of the victim as also the victim herself to state that the FIR in question was got lodged due to a domestic dispute. 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. Learned counsel for the respondents No.2 and 3 has not disputed the execution of the affidavits relied upon by the petitioner.

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

7. The petitioner was arrested on 28.02.2024. The rival contention of the learned counsel for the parties; regarding the weightage required to be attached to the affidavits of the complainant/brother of the victim (Annexure P-2), affidavit of father of the victim (Annexure P-3) as also affidavit of the victim herself (copy whereof has been appended as Annexure P-4); shall be gone into during the course of trial. The petitioner is a youngman aged 21 years 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 investigation. As per the custody certificate dated 01.05.2024 filed by the learned State counsel, the petitioner has suffered incarceration for more than 02 months. Suffice to say, further detention of the petitioner as an undertrial is not warranted.

8. 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/Illaq Magistrate.

(vii) The petitioner shall not in any manner try to delay the trial.

9. 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.
10. Ordered accordingly.
11. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.
12. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

02.05.2024

Jasmine Kaur

(SUMEET GOEL)

JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No