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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-16071-2024 (O&M)

Date of Decision: 08.04.2024

Devraj Kumar

.. Petitioner

Vs.

State of Haryana

..Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Ms. Pooja Jaglan, 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.1067 dated 09.12.2022, registered for the offences punishable under Sections 363, 366 and 376(2)(n) of IPC and Section 6 of POCSO Act at Police Station Chandi Bagh, Panipat.
2. The case set up in the FIR in question (as set out by the petitioner in the present petition) is as follows:-

“On dated 09.12.2022, complainant/father of the prosecutrix came present in police station and presented a written complaint to the effect that his daughter is aged about 14 years old. She is missing since 9.00 Am. On dated 08.12.2022 he tried to search her on his own level but could not trace her out. He has suspicion on Devraj Kumar son of Bijender Paswan. He requested to take legal action against him Hence the present FIR was registered.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 25.05.2023. Learned counsel for the petitioner has further argued that the material prosecution witnesses i.e. victim and

complainant/father of the victim have turned hostile when examined as PW1

and PW-2 respectively and hence the trial is not likely to culminate into conviction. 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 25.05.2023 whereinafter investigation was carried out & challan was presented on 09.06.2023. Total 23 prosecution witnesses have been cited out of which 6 witnesses stand examined/given up. Culmination of the trial will take its own time. The rival contention of the learned counsel for the parties regarding the weightage required to be attached to the testimony of the hostile witnesses 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 the custody certificate dated 05.04.2024 filed by the learned State counsel, the petitioner has suffered incarceration for more than 10 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/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 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.

08.04.2024

(SUMEET GOEL)
JUDGE

Jasmine Kaur

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No