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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

210

CRM-M-16353 of 2024
DATE OF DECISION :- 02.09.2024

Dharamveer Singh @ Sukh @ Shanty

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. Imran Farooqi, Advocate for the petitioner.

Mr. Anup Singh, AAG, Punjab.

Mr. Aman Mittal, Advocate for respondent No. 2.

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. 97 dated 14.08.2023, registered for the offences punishable under Sections 376,376-D,506 of IPC and Section 06 of POCSO Act at Police Station Dirba, District Sangrur.
2. The case set up in the FIR in question (as set out in the present petition by the petitioner) is as follows:-

“Statement of Harkirat Kaur, daughter of Mela Singh, resident of Kamalpura, PS Dhirba, District Sangrur, aged 17 years, mobile number: 99140-49630: It is stated that I am a resident of the above-mentioned address and I have been studying in +1 at Govt. High School Kamalpur. We are two, sister and brother, and my date of birth is 23.06.2007. Dharamveer Singh, also known as Sukh or Santi, son of Baldev Singh, resident of Ghanaur, Rajpura, follows me while I am going to and returning from school. In the month of February 2023, when I was alone going to the school alone and by threatening me, he



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took me to his village Ghanaur, Rajputana on his motorcycle, where his no family member was present and he established physical relation with me without my consent and asked me not to disclose about it to any family member and threatened me that in case I disclose this to any one then he will kill me brother and will maline the image of the victim and even due to my mother being mentally ill and father remains out of the house, Dharamveer Singh @ Sukh @Santi used to take me to his house after threatening me and established physical relation with me without my consent. Due to the threat, I refrained from informing anyone about this incident. However, due to severe stomach pain, I confided in my father, Mela Singh. Together with my father and my aunt, Jaspreet Kaur, wife of Amrik Singh, resident of Kamalpur, they took me to the hospital for treatment, where I am currently undergoing treatment. I request appropriate action be taken against Dharamveer Singh, also known as Sukh or Santi. This statement is true and accurate. Signed: Harkirat Kaur, Endorsed by: Mela Singh, son of Chand Singh, resident of Kamalpur, PS Dhirba, Attested by: Jatinder Kaur, SI PS Dirba, Dated: 14.08.2023.

Police Proceedings: Today, on the instructions of the SHO of PS Dirba, L/SI, while present at PS Dirba, was informed by the munshi that the victim, Harkirtan Kaur, daughter of Mela Singh and resident of Kamalpur, PS Dirba, Sangrur, who is admitted to the hospital due to the sexual assault, requires action to be taken. Subsequently, L/SI, accompanied by ASI Bikar Singh (2365/San), L/Sc Gagandeep Kaur (1325/San), and PHG Hoshiar Singh (47955), proceeded to the civil hospital in a private vehicle. The doctor's opinion was sought to record the statement of the victim, which was obtained positively. The statement has been recorded, and based on it, offenses under sections 376, 506 IPC, and 6 of the POCSO Act have been filed against Dharamveer Singh, also known as Sukh or Santi.”

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3. Learned counsel for the petitioner has argued that the petitioner is in custody since 15.08.2023. Learned counsel for the petitioner has further submitted that the petitioner has been falsely implicated into the FIR in question. Learned counsel for the petitioner has further submitted that the testimony of the victim as also her father already stand recorded and thus there is no chance of the petitioner tampering with the substantial prosecution evidence. Learned counsel for the petitioner has further submitted that as per the FSL report dated 22.12.2023 produced by the prosecution, the petitioner is not the biological father of foetus of 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 01.09.2024 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 15.08.2023 whereinafter investigation was carried out and challan stands presented on 12.10.2023. Total 24 prosecution witnesses have been cited out of which only three prosecution witnesses have been examined till date and culmination of trial, but of course, will take its own time. The rival contention of learned counsel for the parties; as to whether the petitioner has been falsely implicated into the FIR in as also the weightage required to be attached to the FSL report dated 22.12.2023 produced by the prosecution; shall be gone into during the

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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. As per custody certificate dated 01.09.2024 filed by learned State counsel, the petitioner has already suffered incarceration for a period of more than 01 year & 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 interim 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 cell-phone 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.



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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

02.09.2024
P.Singh

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No