

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-16169-2024

Date of decision:09.04.2024

Kaushal

....Petitioner

V/s

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. S.K. Tripathi, 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.0207 dated 31.08.2022, registered for the offences punishable under Sections 363, 366 of IPC and Section 6 of POCSO Act at Police Station Manesar, District Gurugram.
2. The case set up in the FIR in question (as set out in the present petition by the petitioner) is as follows:-

“To, SHO Sahab, P.S. Manesar, Gurugram Sir, it is submitted that I Chaudhary Kumar s/o Balram is resident of Village Bhadekh, P.S. Kuthond, District Jalon, U.P. now tenant at Sansar Singh, Village Naharpur. I have three daughters and one son. On dated 14.06.2022 I came alongwith my children at village Naharpur and doing the work of labourer. On dated 18.06.2022, my daughter Aarti aged about 17 years and she left the house without informing anybody else on which I thought that she has gone to my village. I went to my village for searching of my daughter and I searched to her but but no any clue has been received about my daughter. The colour of my daughter is whitish, height 4 ft. 6" and who was wearing a slipper in her legs. On which I have come at Police Station. Kindly my daughter may be searched out and legal action may be taken. Sd/- Chaudhary Kumar.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 05.05.2023. Learned counsel has referred, *in extenso*, to the testimony of the victim (recorded as PW-1) to argue that the prime prosecution witness has turned hostile & hence in all likelihood, the trial is not likely to culminate into conviction of the petitioner. 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 07.04.2024 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 05.05.2023 whereinafter investigation was carried out and challan stands presented on 03.07.2023. Total 20 prosecution witnesses have been cited and culmination of the trial will take its own time. The rival contention of learned counsel for the parties; regarding the weightage required to be attached to the testimony of the hostile witness i.e. PW-1 (victim); 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 perceptible 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 07.04.2024 filed by learned State counsel, the petitioner has already suffered incarceration for a period of more than 11 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 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/Illaq 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

April 09, 2024
Ajay

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