

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

214

CRM-M-17044-2024

Date of decision:15.04.2024

Nitish Kumar @ Deepak

....Petitioner

V/s

State of Haryana

....Respondent

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Rahul Bhargava, Advocate with
Mr. Tanveer Singh, Advocate for the petitioner.
Ms. Priyanka Sadar, AAG Haryana.
Mr. Kashav Chadha, Advocate for the complainant.

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.41 dated 26.04.2023, registered for the offences punishable under Sections 506 of IPC and Section 328 of IPC (added later on) and Section 6 of POCSO Act at Police Station Women Central, District Faridabad.
2. The case set up in the FIR in question (as set out in the present petition by the petitioner) is as follows:-

“To, The SHO, Police Station Women, Sector 16. It is requested here that I, Pooja W/o Rajesh Kumar R/o Village Baberu, District Banda, UP at present tenant of House No. 67, Baselawa Colony, Old Faridabad. Today on dated 26.04.2023, I went to Care Will Hospital for getting my daughter checked where the doctor has conducted the checkup and told me that she is pregnant. Regarding this, I asked my daughter about the same, whereby she told me that Deepak who is residing in the neighborhood 8 months back, one day came to our house and forcibly developed physical relations with my daughter and gave threat to her life and liberty and said that in case she disclosed about this to anyone then she will eliminate her completely. Due to which my daughter got scared and did not disclosed anything to me and now my daughter got pregnant. It is requested to your

goodself that legal action be taken against Deepak. Sd/- Pooja 9891750955.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 23.05.2023. Learned counsel has further argued that the material witnesses i.e. PW-1 (victim), PW-2 (father of the victim) as also PW-3 (mother of the victim/complainant) have turned hostile and 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 13.04.2024 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 23.05.2023 whereinafter investigation was carried out and challan was presented on 05.06.2023. Total 24 prosecution witnesses have been cited out of which 03 material/private witnesses stand examined. The rival contention of learned counsel for the parties; regarding the weightage required to be attached to the testimonies of the hostile witnesses i.e. PW-1 (victim), PW-2 (father of the victim) as also PW-3 (mother of the complainant/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 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 custody certificate dated 13.04.2024 filed by learned State counsel, the petitioner has already suffered incarceration for a period of 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 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 15, 2024
Ajay

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