

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

237

CRM-M-17263-2024

Date of decision:16.04.2024

Dinesh @ Bala

....Petitioner

V/s

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Ms. Prabhjot Kaur Virk, Advocate for the petitioner.
Ms. Ankita Ahuja, 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.114 dated 05.08.2023, registered for the offences punishable under Sections 354/354-D/376(2)(n)/450/506 of IPC at Police Station Women Police Station Jind, Haryana.
2. The case set up in the FIR in question (as set out in the present petition by the petitioner) is as follows:-

“Sir., I am Pooja Wife of Anjit resident of Sharma Nagar, Jind, I am married and I have a son. One Dinesh S/o Praveen who was my husband's friend and he used to come to my house, during this time the accused used to keep wrong eye (bad intention) on me. About 4 or 5 months from now, when my husband was not at my house, Dinesh came to my house. He forcefully had physical relations with me, and asked me that if I told about it, he will kill me and I did not tell anything to anyone, out of fear and after this I kept talking to him many times. And after this, he kept having physical relations with me many times and he also told me that he has my photo and video which he will make viral. About 15 days back when I was going to my parents' , house, the accused Dinesh had threatened to kill me and my child and had physical relations with me by blackmailing 15 days back I told this to my husband Anjit and then my husband talked to the accused Dinesh but he did not agree. Whenever I go out, the accused follows me again and again, teases me and forces me on the way all the

time. Strict action should be taken against the accused. Till date, I have not lodged a complaint with the police because of my respect in the society.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 06.08.2023. Learned counsel has further referred, *in extenso*, to the statement made by the victim (PW-1) to argue that the photographs put to the victim during the cross-examination have been stated by the victim to have been taken with her own consent. Learned counsel has further argued that the husband of the victim namely Anjit (PW-1) is intentionally not coming forward to have his testimony recorded. In this regard, learned counsel for the petitioner has placed reliance upon orders dated 10.04.2024 & 27.02.2024 passed by this trial Court. It has been further argued that the petitioner has been falsely implicated in the FIR in question. 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 15.04.2024 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 06.08.2023 whereinafter investigation was carried out and challan stands presented on 12.09.2023. Total 09 prosecution witnesses have been cited out of which the testimony of the victim already stands recorded as PW-1. The culmination of the trial 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 question as also the weightage required to the photographs put by the defence to the victim during the course of her cross-examination; 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 prosecution evidence. Petitioner is young man aged about 21 years with no criminal antecedents. As per custody certificate dated 15.04.2024 filed by learned State counsel, the petitioner has already suffered incarceration for a period of more than 08 months.

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/Illaqa 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 16, 2024
Ajay

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