

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

239

CRM-M-17376-2024

Date of decision:16.04.2024

Vikas Singh

....Petitioner

V/s

State of Punjab

....Respondent

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Aditya Pratap Singh, Advocate for the petitioner.
Mr. Anup Singh AAG Punjab.

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.52 dated 13.09.2023, registered for the offences punishable under Section 376 of IPC at Police Station Narot Jaimal Singh, District Pathankot.
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 Seema Devi daughter of Jaspal resident of Kathana Police Station Narot Jaipal Singh aged around 19 years Mob No. 9878391228. Stated that I am a resident of the aforementioned address and I do domestic household works and I have passed 10th class dated 9.9.2023 at around 11,00 during day I had come to Narot Jaipal Singh for some personal work where after finishing my work I was coming on foot towards the Narot Jaimal Singh Bus Stand from market when I reached near the Bus stand Narot Jaimal Singh at around 5.00 o clock in the evening when boy from my village Vikas Singh son of Gopal Singh resident of Kathana Police Station Narot Jaimal Singh met me on his motorcycle and told me that where do you want to go and I told him that I wasn't to go back to my village then he started saying that he will take me to the village on his motorcycle and I sat as pillion on his motorcycle on his saying and then he took his motorcycle from bus stand Bahadurpura to Village Bahadurpur towards his farms (Tubewell) and took me there where he developed physical relations with me without my consent against

my wishes and after some time took me on his motorcycle and dropped me at the outskirts of Village Kathana and being scared I did not disclose anything to my family members. Today I developed some courage and told narrated this incident to my mother Kambli Devi wife of Jaspal resident of Kathana and today I have come to you along with my mother Kamla Devi for action, we have met you appropriate action may kindly be taken against Vikas Singh. Sd/- Seema Devi above said, Kambli Devi wife of Jaspal resident of Kathana put her left thumb impression verified Amanpreet Kaur SI, Incharge Women Cell Rural Pathankot dated 13.09.2023.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 14.09.2023. Learned counsel has referred, *in extenso*, to the testimonies of PW-1 (victim/complainant) as also PW-2 (mother of the victim) to argue that the material/private witnesses 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 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 14.09.2023 whereinafter investigation was carried out and challan stands presented on 07.11.2023. Total 15 prosecution witnesses have been cited out of which 02 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/complainant) as

also PW-2 (mother of the 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 prosecution evidence. 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 03 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/Illaqqa 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