

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

211

CRM-M-18371-2024

Date of decision:22.04.2024

Banti @ Rohan

....Petitioner

V/s

State of Haryana

....Respondent

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Munish Raj Chaudhary, 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.232 dated 09.05.2023, registered for the offences punishable under Section 346 of IPC and Sections 363, 366, 376(3), 506 of IPC (added later on) and Section 6 of POCSO Act, 2012 (added later on) at Police Station Sector 32-33, District Karnal.
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 Sector 32-33 Karnal. Sir, it is requested that I am Sanjeev Kumar S/o ekpal, resident of village Badi Mangalpur Karnal. Today at 6 pm on 08.05.2023, my daughter Anushka is missing from home. At that time when I came home, she was not at home. She used to stay alone at home. Today at 9 am in the day, I had left home for work. When I came home at 8 pm, she was not home. Please search for her. Appearance: Fair complexion, black shirt and black pants. Her height is around 5 ft. 4 inch. Mobile No. 9034625077 Sd/- Sanjeev Kumar”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 08.09.2023. Learned counsel has further argued that the

victim (when examined as PW-1) has turned hostile and, hence in, all likelihood, the trial is not likely to conclude 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 20.04.2024 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 08.09.2023 whereinafter investigation was carried out and challan was presented on 17.10.2023. Total 12 prosecution witnesses have been cited and the 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 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 22 years with no criminal antecedents. As per custody certificate dated 20.04.2024 filed by learned State counsel, the petitioner has already suffered incarceration for a period of more than 07 months & 12 days

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 22, 2024
Ajay

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