

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

210

CRM-M-18249-2024

Date of decision:22.04.2024

Babbu Kumar

....Petitioner

V/s

State of Haryana

....Respondent

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Balraj Gujjar, Advocate with
Mr. Pardeep Balyan, 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.383 dated 23.10.2023, registered for the offences punishable under Sections 354-A, 452 of IPC and Section 8 of POCSO at Police Station Sadar, Sonipat, District Sonipat, Haryana.
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, P.S. Sadar Sonipat. Sir, it is requested that I Pooja w/o Sandeep Kumar s/o Prem Kumar, R/o Chilkana Saharanpur, U.P., I am presently residing at Vill. Lehrara Distt. Sonipat. I and my husband has been working at grain market as a food vendor. We have three children out of which two girls and one boy. On 22.10.2023 at around 10:00 PM, my husband and my daughter lecha were sleeping then Babbu Kumar s/o Sh. Raghbir Bahaur, R/o Parvah Distt. Ahariya, P.S. Farvisganj, Bihar, who was staying in an adjoining accommodation as tenant, molested my younger daughter lecha. When my daughter shouted then Babbu Kumar ran away to his room. My husband at that time was sleeping in the room. I and my son namely Raj were cooking food in grain market. When I and my son came to the home, then my daughter told me about this incident. Today, I came to you and presented the complaint. Strict legal action

against Babbu. My daughter Iecha aged about 14 years. Sd/ Pooja w/o Sandeep Kumar, R/o Lehrara Distt. Sonipat 8059671378.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 23.10.2023. Learned counsel has further argued that there was a dispute between the petitioner and the father of the victim on account of the father of the victim having trying to steal the mobile phone of the petitioner and the petitioner had caught the father of the victim while stealing the same. It has been further argued that the private/material witnesses namely the victim, mother of the victim and father of the victim already stand recorded as PW-1 to PW-3 respectively. 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 19.04.2024 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 23.10.2023 whereinafter investigation was carried out and challan stands presented on 22.12.2023. Total 16 prosecution witnesses have been cited out of which material/private witnesses namely victim, mother of the victim as also father of the victim stand recorded as PW-1 to PW-3 respectively. The rival contention of learned counsel for the parties; as to whether petitioner has been falsely implicated in the FIR in question on account of father of the victim trying to steal the mobile telephone of the petitioner; shall be gone into during the course of trial. This Court does not deem it appropriate to delve deep into

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 19.04.2024 filed by learned State counsel, the petitioner has already suffered incarceration for a period of more than 05 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 22, 2024
Ajay

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