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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-18531-2024 (O&M)

Date of Decision: 23.04.2024

Vishal

.. Petitioner

Vs.

State of Haryana

..Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Nirmal Singh, 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.342 dated 07.12.2022, registered for the offences punishable under Section 346 IPC (Sections 363, 366, 376(2)(n) of IPC and Section 6 of POCSO Act were added later on) at Police Station Munak, District Karnal.
2. The case set up in the FIR in question (as set out by the petitioner in the present petition) is as follows:-

“Copy of complaint is as under, To, the Incharge of Police post. Balla. Sir, It is requested that I am Vijay Kumar son of Sultan Singh caste Dhanak. I am a resident of village Balla. I have five girls and one boy. The eldest girl is Kiran, 17 years old, who went away from home yesterday evening at around 6.00 PM without informing us and till today we are searching for her on our own. Our daughter Kiran has not been found anywhere. A search should be conducted for my daughter Kiran. Kiran waering white Jamfar, Blue colored salwar, Red black green satol with apple printed on it. Her Complexion wheatish, round face, thin & active, Mole mark on the right side of the face, Height 5 feet, 11th standard pass, Age 17 years. Vijay Kumar Applicant Vijay Kumar 9050075910, 9896330799, Dated 07.12.2022.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 08.04.2023. Learned counsel for the petitioner has referred, *in extenso*, to the statement made by the victim under Section 164 of Cr.P.C. on 05.04.2023 as also the testimony made by the victim as a prosecution witness (PW-1) on 03.10.2023; to argue that there was consensual friendship between the petitioner and the victim which was not to the liking of the family of the victim. It is on this account, the petitioner has been falsely roped into the FIR in question. Thus, regular bail is prayed for.

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.

5. I have heard counsel for the parties and have gone through the available records of the case.

6. The petitioner was arrested on 08.04.2023 whereinafter investigation was carried out & challan was presented on 11.05.2023. Total 26 prosecution witnesses have been cited out of which all the material/private witnesses stand examined. The rival contention of the learned counsel for the parties; as to whether there was consensual friendship between the petitioner and the victim and as to whether the same was not to the liking of the family 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 remaining prosecution evidence. The petitioner is stated to be a young man

aged about 21 years with no criminal antecedents. As per the custody certificate dated 20.04.2024 filed by the learned State counsel, the petitioner has suffered incarceration for more than 1 year. 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 totality of factual matrix of the present case, the instant 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.

23.04.2024

(SUMEET GOEL)
JUDGE

Jasmine Kaur

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No