



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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CRM-M-22153-2024
Date of decision: 08.05.2024

BHIM

....Petitioner

V/s

STATE OF HARYANA

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Baljeet Beniwal, 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.634 dated 30.11.2023 registered for the offences punishable under Sections 363, 366-A of IPC, 1860 (Section 376 of IPC and Section 6 of the Prevention of Children from Sexual Offences Act, 2012 were added later on) at Police Station, Hodal, District Palwal.
2. The case set up in the FIR in question (as set out by the petitioner in the present petition) is as follows:-

“To, SHO Sir, Police Station Hodal. Respected Sir, my humble request is that I am Santosh wife of Madanlal resident of Friends Colony, Tehsil Hodal, District Palwal. That on 28.11.2023, my daughter Rekha aged 17 years, suddenly went out in the night from the home. That till now I have searched on my own but could not find. That my daughter is 5 feet tall, fair complexion



and wearing suit salwar, wearing slippers in feet. That now I came to know that Bhim Nayak son of unknown resident of Kanjar Mohalla, Lohina took my daughter who is missing from his home with my daughter. Therefore, it is requested that action should be taken in the above matter. I will be thankful to you. Dated 30.11.2023. Applicant Sd/- Santosh wife of Madanlal resident of Friends Colony, Hodal. Mobile no.8950220462..”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 29.01.2024. Learned counsel for the petitioner has further referred, *in extenso*, to the statement made by the victim under Section 164 of Cr.P.C. on 28.11.2023 to argue that the petitioner & the victim were in a long term consensual relationship and they have even married each other on 28.11.2023. Learned counsel for the petitioner has further argued that the relationship as also the marriage, which had taken place between the petitioner & the victim, was not to the liking of the family of the victim & hence the petitioner has been falsely implicated in to the FIR in question.

4. Learned counsel for the State has opposed the present petition by arguing that the allegations raised are serious in nature and, thus, the petitioner does not deserve the concession of 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 29.01.2024 whereinafter investigation was carried out & challan was presented on 15.03.2024. Total 23 prosecution witnesses have been cited and culmination of the trial will take its own time. The rival contention of the learned counsel for the



parties; regarding the petitioner & the victim being in a consensual relationship earlier; the petitioner & the victim marrying each other on 28.11.2023 as also the import of the statement made by the victim under Section 164 of Cr.P.C.; 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 the custody certificate dated 06.05.2024 filed by the learned State counsel, the petitioner has suffered incarceration for about 03 months. Though the petitioner is stated to be involved in another case, however, the custody certificate itself reflects that the petitioner is on bail in the said case. Suffice to say further detention of the petitioner as an undertrial is not warranted in the facts and circumstances of the present 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 learned 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

May 08, 2024
poonam

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