

CRM-M-23540 of 2024

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

215

CRM-M-23540 of 2024

DATE OF DECISION :- 15.05.2024

Dinesh

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL**Present:-** Mr. Mohan Singh Rana, 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.197 dated 03.04.2022, registered for the offences punishable under Sections 376(2)(n), 363, 366, 376(3) of IPC and Section 6 of POCSO Act at Police Station Ghraunda, 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:-

"At this time, I SI Devender 1244, Police Station Gharaunda, is present at the Police Station. A written application was presented by Sanjay son of Jile Singh son of Sukan Chand resident of village Pundri, Police Station Gharaunda, District Karnal. Which is as under. To SHO, Police Station Gharaunda, Sir, It is request that / Sanjay son of Jile Singh son of Sukan Chand am a resident of village Pundri. We are four brothers and 1 sister. My sister Santosh's daughter Radhika, age 17 years, came to village Pundri 7-8 days ago. On 02.04.2022 at about 11:30 PM, My niece Radhika went somewhere without telling



anyone. I and my sister Santosh searched for her in all the relatives but we could not find her. Please search for my niece Radhika. Sir, we will be highly grateful to you. Body Structure Dark complexion, height: 5 feet, girl wearing orange colour suit-salwar. 9518143773. SD/- Sanjay"

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 20.04.2022. Learned counsel for the petitioner has further argued that the victim by making her statement under Section 164 of Cr.P.C. before Judicial Magistrate Ist Class, Karnal had not made any inculpatory statement against the petitioner. Learned counsel for the petitioner has further argued that the private/material witnesses already stand recorded and thus there is no chance of tampering of any evidence by 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 14.05.2024 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 20.04.2022 whereinafter investigation was carried out and challan stands presented on 13.07.2022. Total 17 prosecution witnesses have been cited out of which 4 witnesses already stands examined. The material/private witnesses including victim already stands examined and 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 statement made by the victim under Section 164 Cr.P.C. vis-a-vis the statement made by her in the Court as a prosecution witness; 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 14.05.2024 filed by learned State counsel, the petitioner has already suffered incarceration for a period of about 02 years and 25 days & 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

15.05.2024
P.Singh

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No