



CRM-M-24067-2024 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-24067-2024 (O&M)

Date of Decision: 25.09.2024

VISHAL

.. Petitioner

Vs.

STATE OF HARYANA

..Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. G.S. Sandhu, 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.16 dated 17.02.2023, registered for the offences punishable under Sections 376 and 506 of IPC, 1860 and Section 4 of POCSO Act, 2012 at Women Police Station Assandh, 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:-

"To SHO Women Police Station Assandh, sir, it is submitted that I Rekha w/o Late Satish Kumar is resident of village Jalmana, Police Station Assandh, District-Karnal. I am having Two Children and my husband has already died. My daughter Shiwani aged about 14 years is studying in 9th class at Govt. School, Jalmana. After having dinner we went to sleep. My daughter Shiwani was sleeping on bed. At about 12.30-1.00 in night I got up to pass urine, then I saw that my daughter Shiwani is not on bed. I got up my son and other family members and searched about my daughter Shiwani. Shiwani was found in a vehicle parked outside and was scared. When I asked my daughter Shiwani that what has happened to her, then my daughter told that Vishal S/o Mohan caste Chamaar, Resident of Jalmana has forcibly done wrong act

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with her and while leaving, he has threatened that if I will tell about this to anybody, he will kill me and my family members. My daughter was bleeding profusely at that time. I alongwith my family members took my daughter Shiwani to Govt. Hospital, Assandh. My daughter Shiwani is admitted at Govt. Hospital. Legal action be taken against accused. Thank you Sd/- Rekha dated 17.02.2023."

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 17.02.2023. Learned counsel for the petitioner has submitted that the prime private prosecution witnesses, namely, the victim as also the mother of the victim (complainant) have turned hostile & hence in all likelihood the trial is not likely to culminate into conviction. Thus, the 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 17.02.2023 whereinafter investigation was carried out & challan was presented on 13.04.2023. Total 16 prosecution witnesses have been cited out of which the victim as also the mother of the victim (complainant) stand recorded. The rival contention of the learned counsel for the parties; regarding the weightage required to be attached to the testimony of the hostile witnesses; 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

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23.09.2024 filed by the learned State counsel, the petitioner has suffered incarceration for about 01 year and 07 months. 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 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.



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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.

25.09.2024
Jasmine Kaur

(SUMEET GOEL)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No