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

244 **CRM-M-25944 of 2024**
DATE OF DECISION :- 09.08.2024

Sujal **...Petitioner**

Versus

State of U.T., Chandigarh and another **...Respondents**

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. Rahul Vijay Singh Chugh, Advocate for the petitioner.

Mr. Rajeev Anand, Advocate
with Mr. Ujwal Anand A.P.P., U.T., Chandigarh.

SUMEET GOEL, J. (Oral)

In terms of the order dated 08.08.2024 earlier passed by this Court, learned State counsel has filed a compliance report by way of affidavit of Sh. Ram Rattan, Station House Officer, Police Station Sector 31, Chandigarh. The same be taken on record.

At this stage, Ms. Harpreet Kaur Arora, Advocate has filed Vakalatnama for the complainant. The same be taken on record.

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.0129 dated 30.07.2023, registered for the offences punishable under Sections 363,366,376(2)(n) of IPC and Sections 4, 6 of POCSO Act at Police Station Sector-31, Chandigarh.
2. The case set up in the FIR in question (as set out in the present petition by the petitioner) is as follows:-

“Copy of statement, Statement of Hari Om Son of Soji Ram, resident of House No. 1043, Phase-II, Ram Darbar, U.T., Chandigarh aged 42 years Ph. 6284965142, stated that I am



resident of the above stated address and reside on the above stated address alongwith my family and I have three children. That I have one son two daughters. That my second number daughter is named Kishna whose date of birth is 08.02.2006, that my daughter Kishna on 28.07.2023 at about 3:30 p.m. left the home without telling anything. Whom I searched a lot at my own level. She did not meet. That some unknown person has kidnapped my daughter. That action be taken on my application and legal action be taken against unknown person. That the description of my daughter is height 4' 8", colour fair wearing pink colour suit, brown shoes with shining and brown colour hair. I do not want to publish the photographs of my daughter in the newspaper and TV. Statement has been got recorded, heard and is correct. Sd/- Hari Om M.No. 6284965142 D.O.B. 1.1.1977, attested by ASI Anil Kumar 3236/CP, P.S. 31, CHD dated 30.07.2023."

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 19.09.2023. Learned counsel for the petitioner has further argued that the petitioner and the victim had married each other on account of their free will/accord which was not to the liking of the father of the victim and hence the petitioner has been falsely implicated into the FIR in question. Learned counsel for the petitioner has referred, in extenso, to the testimony of the victim (recorded as a prosecution witness-PW2) to argue that the main prosecution witness has not supported the cause of the prosecution and hence the trial is not likely to culminate into conviction. 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 09.08.2024 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 19.09.2023 whereinafter investigation was carried out and challan stands presented on 17.11.2023. Total 19 prosecution witnesses have been cited out of which 06 have been examined and 03 have given up. It not in dispute that prime prosecution witness namely the victim, when examined as PW2, The rival contention of learned counsel for the parties; regarding the weightage required to be attached to the testimony of the hostile witness namely the victim (PW2); 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 09.08.2024 filed by learned State counsel, the petitioner has already suffered incarceration for more than 10 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 cell-phone 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

09.08.2024
P.Singh

Whether speaking/reasoned

Whether Reportable

Yes/No

Yes/No