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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-26982-2024 (O&M)

Date of Decision: 27.08.2024

VARUN KUMAR

.. Petitioner

Vs.

STATE OF PUNJAB

..Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Pardeep Singh Rana, Advocate for the petitioner.

Mr. Anup Singh, AAG, Punjab.

...

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.152 dated 22.07.2023, registered for the offences punishable under Sections 363, 366 and 376 of IPC and Section 4 of POCSO Act, at Police Station City Gurdaspur, District Gurdaspur.

2. The case set up in the FIR in question (as set out by the petitioner in the present petition) is as follows:-

“Statement of Shakshi wife of Hari Saran, House No. 420/20, Shankar Nagar, Tibri Road, Gurdaspur, Mobile No. 7652808051 that I am resident of above said address and a household lady, my husband has bakery work. My daughter Komal whose date of birth is 26.03.2007 she passed 10th class from Anand Model School, Gurdaspur, on March 2023 Varun son of not known resident of near Park, Khandwal Sahrata, Amritsar, had enticed her away because my daughter met him in the train, at that very time next day we had brought our daughter to Amritsar and no legal action was taken on dated 21.07.2023 in the night the entire family gone to sleep after having dinner, my daughter Komal, my son Madhu Sudan and me were sleeping in the room upstairs and when at 4'o clock got up and saw, my daughter was not present in the room, to

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whom so far looked a lot but found nowhere. We have firm belief that my daughter has been taken away by Varun father of not known, resident of near Park, Khandwal Sahrata, Amritsar with intent to get married because we had found out about Varun also who was not at his home, appropriate legal action be taken against him Sd/ Sakshi verified by Banarsi Dass SI Police Station City Gurdaspur dated 22.07.2023.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 03.08.2023. Learned counsel for the petitioner has further argued that there was consensual friendship between the petitioner and the victim which was not to the liking of the family of the victim & hence the petitioner has been falsely implicated into the FIR in question. Learned counsel for the petitioner has submitted that all private prosecution witnesses already stand examined and there is no likelihood of the petitioner tampering with the prosecution evidence. Learned counsel for the petitioner has further submitted that the petitioner is a young man aged 20 years with no criminal antecedents. 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 03.08.2023 whereinafter investigation was carried out & challan was presented on 03.10.2023. Total 14 prosecution witnesses have been cited out of which 7 prosecution witnesses (including the private prosecution witnesses) stand examined. The rival contention of the learned counsel for the parties; as to whether the petitioner has been falsely implicated into the FIR in question on account of

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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. As per the custody certificate dated 23.08.2024 filed by the learned State counsel, the petitioner has suffered incarceration for more than 01 year and 18 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 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.



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(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.

27.08.2024

Jasmine Kaur

(SUMEET GOEL)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No