



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

229

**CRM-M-26374 of 2024
DATE OF DECISION :- 28.05.2024**

Parveen

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. Ajay Kumar Gupta, Advocate
with Mr. Hritik Gupta, 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.87 dated 08.09.2023, registered for the offences punishable under Sections 341/354-D,354-A,376/511 and 506 of IPC and Sections 6,10 and 18 of the POCSO Act and Section 67-A of the I.T. Act (Section 201 IPC added later on at the the time of filing of challan) at Police Station Women Bhiwani, District Bhiwani.
2. The case set up in the FIR in question (as set out in the present petition by the petitioner) is as follows:-

“Stated that I am Sonia, daughter of Mr. Subhash Chander, age 15 years, resident of Ward No. 12, School waligali, Adarsh Nagar, Siwani. I study in 10th class at Shri Maharaja Agarsain School, Siwani. Parveen used to force me while commuting to school. Parveen Dhar have his agency. He used to harass me every day while commuting to school. One day in the month of February 2022, Parveen blocked my way while coming from school and started molesting me forcefully. With great difficulty I freed myself from Parveen and came home and out



of fear I did not tell anyone about this incident in my house. Rajesh met me two days after this incident. Rajesh used work in Parveen's agency and he sympathized with me that Parveen had clicked your photo while coming and going, now he is threatening to make these photos viral by tampering with them and making them viral on social media and Rajesh said that he will take Parveen's phone and delete all your photos' and the same night Rajesh called me and said that I deleted all photos in Parveen's Phone'. Then at around 3:00 in the night Rajesh and Parveen came to my house and threatened me. Parveen threatened me and asked me to make a video with Rajesh and said that I have your photos, I will viral those photos on social media and if you try to make noise or tell anyone, I will kill your brother. I was very scared. Rajesh made my video with his phone. After this, both of them done wrong things with me forcefully and started touching my private part inappropriately and when I said that I will make noise, both of them ran away. The next day Parveen called me and started threatening me to make physical relations with me otherwise I will make your video or photo viral and I did not tell about this thing to anyone out of fear that these two may not make my video and photo viral'. Parveen pressured me to have physical relations. When I refused to do so, Parveen made my video and photo viral in my village Bhera and this video and photo came on the mobile number 8003301374 of Ajay Kumar Dariya Singh resident of Bhera. After this, my family saw this video and photo, so today I came to Bhiwani Women Police Station with my family. A copy of the pen drive of the video and photo which has gone viral on WhatsApp has been attached. I have written my statement which is absolutely correct. Strict legal action should be taken against Parveen and Rajesh. Sd/- Sonia Rekha, Attested By Sinali Adv. Dt. 08.09.2023 Time 06:40 PM. Police Proceedings-Today myself ASI Police Station present village Pehriduty village Ishwal, Dewawas, Tosham. Sonia daughter of



Shri Subhash Chander, age 15 years, resident of ward no. 12, School Wali Gali, Adarsh Nagar, Siwani Tehsil and District Bhiwani along with her family members came to Police Station and informed about forceful molestation to the victim and threatening make the video viral and threatening to kill her, the information was given to female advocate Sonali Tavar through telephone to reach at Women Police Station Bhiwani. receipt of information, female advocate Sonali Tavar has come to Bhiwani Women Police Station. In the presence of the advocate, the victim herself recorded her statement and signed in English below her statement which has been confined by advocate Sonali Tavar. On the basis of the statement made by the victim, offences punishable under section 341, 354-D, 354-A, IPC 6,10,18 POCSO Act 67-A IT Act are found to have occurred and a case is being registered. Today Women Police Station Bhiwani SDLASI SUNITA 255 Women Police 08.09.2023. Today after receiving the said statement at the Police Station, a case FIR number 87 dated 08.09.2023 u/s 341,354-D,354-A,506,376/511 IPC 6,10,18 POCSO ACI 67A IT Act Women Police Station Bhiwani was registered, Copy of case file along with statement handed over to female EHC Mukesh 514 Bhiwani and sent to Inspector Saroj DI Bhiwani for further investigation. A special report of case FIR is being prepared and sent to the service of Senior Officers. Note: This FIR is being registered in presence of L/ASI Sunita 255.

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 11.10.2023. Learned counsel for the petitioner has further referred, in extenso to the testimonies of PW2 (mother of the victim), PW3 (father of the victim), PW4 (uncle of the victim), PW5 (another uncle of the victim) and PW9 (another uncle of the victim) to argue that material/private prosecution witnesses have not supported the version of the prosecution.

Learned counsel for the petitioner has further argued that the petitioner was



falsely implicated into the FIR in question as he had earlier made a complaint against one Rajesh on 05.09.2023 which was subsequently closed on account of withdrawal of the same by the petitioner herein on 07.09.2023 & the victim had a love relationship with the said Rajesh & it is on this account that the petitioner has been falsely implicated into the case in question. Learned counsel for the petitioner has further argued that the victim is not coming forward to have her testimony recorded which factum is decipherable from the zimni orders dated 22.03.2024, 05.04.2024, 12.04.2024, 30.04.2024 and 21.05.2024 passed by the trial Court. 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 24.05.2024 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 11.10.2023 whereinafter investigation was carried out and challan stands presented on 06.12.2023. Total 21 prosecution witnesses have been cited out of which 11 prosecution witnesses already stand examined. The culmination of the trial will take its own time. The rival contention of learned counsel for the parties regarding; the factum of petitioner having been falsely implicated by the victim at the instance of one Rajesh and the weightage required to be attached to the testimonies 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 prosecution evidence. As per custody certificate dated 24.05.2024 filed by learned State counsel, the petitioner has suffered incarceration for about 07 months and 14 days. Further as per custody certificate, the petitioner is shown to be involved in another FIR No. 292/2023 under Sections 363/366-A IPC registered at Police Station Siwani, Bhiwani but the petitioner has been discharged from the said case vide order dated 18.12.2023. Still further, the above said custody certificate shows “the above said accused is not required in this 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

28.05.2024
P.Singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No