



CRM-M-27092 of 2024 (O&M) **1**

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

213

**CRM-M-27092 of 2024 (O&M)
DATE OF DECISION :- 07.08.2024**

Shanky

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. Govind Chauhan, 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.45 dated 17.01.2023, registered for the offences punishable under Sections 120-B,363,366-A,506 IPC and Section 6 of POCSO Act at Police Station Sadar Karnal, 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:-

“That the brief facts of the case are that on 17.01.2023, I ASI Sanjay Kumar is present at Police Station then Pooja wife of Rinku Kumar, resident of Kachhwa, Police Station Sadar Karnal, District Karnal came at Police Station and submit an application, which is as under: To, The SHO, Police Station Sadar Karnal. Sir, It is requested that I am Pooja wife of Rinku Kumar, resident of Kachhwa. I have four daughters and one son. My elder daughter namely, Bhawna, aged 15 years, is missing from home on 16.01.2023 at around 1 pm. I left my daughter at home around 1 o'clock. When I came back home, I

**CRM-M-27092 of 2024 (O&M)** 2

did not find my daughter at home, which I have been searching for till today along with my family. Regarding which, I have come to know that my daughter has been lured by Shanky son of Veda, resident Sambhali with the intention of marrying her. My daughter should be searched and legal action should be taken against the accused Shanky. Sd/ Pooja RTI, 7027445592. 8222817667, dated 17.01.2023.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 21.01.2023. Learned counsel has further submitted that there was consensual friendship between the petitioner and the victim which was not to the liking of the victim and hence the petitioner has been falsely implicated into the FIR in question. Learned counsel for the petitioner has further referred to the statement made by the victim on 19.01.2023 under Section 164 of Cr.P.C to say that the victim had firstly given the correct/truthful version but thereafter, on the tutoring of her family, she has has given a version a inculpatory version against the petitioner on 26.04.2024 when examined as a prosecution witness. 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 05.08.2024 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 21.01.2023 whereinafter investigation was carried out and challan stands presented on 17.03.2023.

Total 21 prosecution witnesses have been cited and out of these witnesses

**CRM-M-27092 of 2024 (O&M)** **3**

only one prosecution witness namely the victim has been examined. The rival contention of learned counsel for the parties; as to whether the petitioner had consensual friendship with the victim which was not to the liking of the family of the victim on account of which the petitioner has been falsely implicated into the FIR in question & as also the veracity/weightage required to be attached to the statement made by the victim under Section 164 of Cr.P.C vis-a-vis the statement made by the victim 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. Indubitably, this is the second bail petition preferred by the petitioner. The first bail petition was dismissed as withdrawn on 22.02.2024 with the following observations :-

“2. Dismissed as withdrawn at this stage.

3. A perusal of the zimni orders dated 22.09.2023, 01.12.2023 & 05.02.2024 passed by the learned trial Court indicate that the testimony of PW-victim is not being recorded on one pretext or the other. Learned trial Court is directed to ensure that the testimony of the victim shall be recorded at the earliest. Superintendent of Police, Karnal is also directed to render all possible assistance to the learned trial Court in this regard.”

It is not in dispute that the testimony of the victim since stands recorded.

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 05.08.2024 filed by learned State counsel, the petitioner has already suffered incarceration for more than 01 year and 06 months & is not shown to be involved in any other case.

**CRM-M-27092 of 2024 (O&M)** 4

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/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.



CRM-M-27092 of 2024 (O&M) **5**

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

07.08.2024
P.Singh

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