

CRM-M-28183-2024 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-28183-2024 (O&M)
Date of Decision: 20.08.2024

MANVEER SINGH

.. Petitioner

Vs.

STATE OF HARYANA

..Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Sirat Sapra, Advocate for the petitioner.
Ms. Mahima Yashpal, DAG, 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.417 dated 19.11.2023, registered for the offences punishable under Section 365 of IPC, 1860 (Section 376(2)(n) of IPC and Section 6 of POCSO Act, 2012 were added later on) at Police Station Panchkula, Sector-5, District Panchkula.
2. The case set up in the FIR in question (as set out by the petitioner in the present petition) is as follows:-

“Sir, the copy of the letter is as follows that To The Incharge, Police Post, Sector 2, Panchkula, Sir, it is requested that my name is Sunita Devi, wife of Naginder Singh and I am resident of village Selampur, District Sapra Saran, District Bihar, currently a tenant of 68 Sector 2 Panchkula, my age is about 38 years that I have three children. Two girls, one boy, the eldest girl's name is Sheetal, whose age is about 16 years, who studies in class 11th, who has gone somewhere from my house without telling anyone since yesterday, dated 18-11-2023, at around 12-00 noon. We have searched for her on our own till now but have not found her, her description is as follows complexion, thin body, height 5 feet 3 inches, wearing

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brown pant and black T-shirt. Hence, I request you to search for my daughter Sheetal and hand it over to us. SD/- Sunita 9462559631.”

3. Learned counsel for the petitioner has submitted that the petitioner is in custody since 21.11.2023. Learned counsel for the petitioner has further submitted that there was consensual friendship between the petitioner and the victim which was not to the liking of the family of the victim and hence the petitioner has been implicated into the FIR in question. To buttress his arguments, learned counsel for the petitioner has relied upon the statement made by the victim under Section 164 of Cr.P.C. before the Judicial Magistrate on 20.11.2023 wherein nothing inculpatory had come against the petitioner. Learned counsel for the petitioner has further argued that the victim has made inculpatory statement against the petitioner in the counselling which took place on 21.11.2023 as also a statement made to the police under Section 161 of Cr.P.C. on 21.11.2023 which has been under the tutoring of the family of the victim. Learned counsel for the petitioner has further argued that earlier also the victim had ran away from the house and one FIR bearing No.0377 dated 29.09.2021 was registered in Police Station Chandimandir, District Panchkula, Haryana at the instance of the father of the victim. 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 21.11.2023 whereinafter investigation was carried out & challan was presented on 16.02.2024. Total

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24 prosecution witnesses have been cited and culmination of the trial will, but of course, take its own time. The rival contention of the learned counsel for the parties; regarding the factum of the petitioner and the victim having consensual friendship which was not to the liking of the family of the victim, the factum of the petitioner having been falsely implicated into the FIR in question, the weightage required to be attached to the statement made by the victim under Section 164 of Cr.P.C. on 20.11.2023 vis-a-vis a statement made by the victim before the Counsellor on 21.11.2023 as also the statement made by the victim before the police under Section 161 of Cr.P.C. on 21.11.2023 & the factum of a previous FIR dated 29.09.2021 having got registered by the father of the victim against another boy; 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 the custody certificate dated 19.08.2024 filed by the learned State counsel, the petitioner has suffered incarceration for more than 08 months and 28 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

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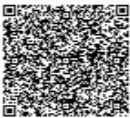
may be imposed by the concerned CJM/Duty Magistrate, the petitioner shall remain bound by the following conditions:-

- (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/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



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11. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

20.08.2024
Jasmine Kaur

(SUMEET GOEL)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No