

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

216

CRM-M-30096-2023
Date of decision: 05.03.2024

Mithun Kumar V/s ...Petitioner
State of U.T, Chandigarh and othersRespondents

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Deepak Sharma, Advocate for
Mr. Naveen Siwach, Advocate,
for the petitioner.

Mr. Sidakmeet Singh Sandhu, Addl.P.P., U.T., Chandigarh,
for respondent No.1.

Mr. Laxman Choudhary, Advocate,
for respondent No.2.

Mr. J.S. Saneta, Advocate,
for respondent No.3.

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.422 dated 01.11.2018, registered for the offences punishable under Sections 363, 366 of IPC at Police Station Sector 39, Chandigarh, District Chandigarh.
2. The case set up in the FIR in question is as follows:-

*“To The Incharge Police Post Palsora, Sector 56, Chandigarh.
Sir, I Rama Shankar son of Malai Ram is resident of 319, Sector 56, Chandigarh doing private job. I am having seven children, out of them six are girls and one boy. My youngest daughter*

Anchal aged about 15 years is studying in 9th class in Government High School, sector 56, Chandigarh. She had gone to school yesterday morning on dated 31.10.2018. She has not returned back home. I am having doubt that Mithun s/o Raj Kumar resident of 475, village Balongi, district Mohali, Punjab has enticed away my daughter as this boy used to come to our house occasionally. After writing my report, legal action should be taken against Mithun and my daughter should be searched. Thanking you, Rama Shankar, 319, sector 56, Mobile 98146-95109 dated 01.11.2018, aged 47 years. Attested HC Manohar Singh 3546/CP Palsora dated 01.11.2018. Police proceedings: To SHO Police Station Sector 45, Chandigarh, it is requested that I HC alongwith Const. Baljit Singh 3848 PP was present in Police Post then Rama Shankar came present and gave an application with regard to enticing away of his daughter Anchhal aged 15 years by Mithun and gave an application. On the basis of palliation offence under section 366/363 IPC is made out. So after the registration of the case under section 363/366 IPC against Mithun s/o Raj Kumar House No. 475 village Balongi district Mohali, Punjab. Const. Baljit Singh 3848 PP was sent to Police Station for registration of case and the FIR number should be intimated. I HC alongwith complainant went to the spot. Sd/- HC Manohar Singh 3546 CP, PP Palsora, Chandigarh, Near PP Palsora Sector 56. Copy of the FIR should be sent to the officials.”

3. Learned counsel for the petitioner has submitted that the petitioner and the victim (arrayed as respondent No.3 in the present petition) were married and even two children were born out of the said wedlock. Learned counsel for the petitioner has further argued that the FIR in question was got lodged by the father of the victim as the relationship between the petitioner & respondent No.3 (herein)-victim was not to his liking. Learned counsel has further relied upon orders dated 14.06.2023

as also 16.06.2023 passed by this Court wherein the concession of interim regular bail was granted to the petitioner. Thus regular bail is prayed for.

4. Learned counsel for the State has opposed the present petition by arguing that the allegations raised are serious in nature and, thus, the petitioner does not deserve the concession of 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 25.04.2023 and is in custody since then. The factum of the petitioner having married respondent No.3 & having been blessed by two children is neither denied by the learned Addl.P.P., UT, Chandigarh nor is denied by learned counsel for respondent No.2-complainant. In fact, learned counsel for respondent No.2 i.e. father of the victim/complainant has submitted that he has no objection to the bail being granted to the petitioner. Nothing tangible is decipherable from the factual matrix of the case to indicate the petitioner absconding from the process of justice or interfering with the prosecution evidence. As per the custody certificate dated 05.03.2024 filed by the learned Addl. P.P., UT, Chandigarh, the petitioner has suffered incarceration for about 01 month and 24 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.

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 learned 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

March 05, 2024
poonam

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No