



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

207

CRM-M-30888 of 2024

DATE OF DECISION :- 12.07.2024

Faisal

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. Pradeep Duhan, Advocate
for Dr. Pankaj Nanhera, Advocate 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.478 dated 26.12.2023, registered for the offences punishable under Sections 363,366-A of IPC (Section 6 of POCSO Act added later on) at Police Station Ferozepur Jhirka, District Nuh, Haryana.

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

“To the City Incharge, Sir, Ferozpur Jhirka. Subject: Complaint against Faisal son of Juhur, Arbaz son of Harun caste Meo resident of village Rigad and 3 others for alluring hie daughter and taking her away on pretext of marriage. Sir, I beg to say that 1, Abdul Hamid son of Noor Mohammad caste Fakir is



resident of ward no. 2, Firozpur Jhirka district Nuh. The facts are that my daughter is SXXX (minor), her date of birth is 01.01.2006. On 23.12.2023, at about 10 PM my daughter went out of house to bring buffaloes tied outside house but she did not come back for long. Then I went outside to see her but my daughter was not there and buffaloes were also tied there. Then I told to my family members and searched near about but I did not find my daughter. Now I have come to know that Faisal son of Juhur, Arbaz son of Harun caste Meo resident of village Rigad, with help of 3 others have taken away my daughter by alluring her for marriage in car bearing registration number HR 28K-5826. Then I contacted their family members, they assured me that they will return the girl but now they are threatening us that if any complaint is given to police then it will not be good. You are miyan, no harm you can cause to us. I am fearing that above accused and his friends and his family members can kill my daughter. Therefore, I request you to recover my daughter and legal action be taken against the accused persons. I will be thankful to you. Dated 26.12.2023. Sd/- Hamid XXXX.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 07.01.2024. Learned counsel for the petitioner, has 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 thus the petitioner has been falsely implicated into the FIR in question. To buttress his arguments, learned counsel for the petitioner has relied, in extenso, upon the statement made by the victim on 06.01.2024 before SDJM/Ferozepur Jhirka, Haryana. 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

**CRM-M-30888 of 2024** **3**

not deserve the concession of the regular bail. Learned State counsel seeks to place on record custody certificate dated 11.07.2024 in Court, which is taken on record.

5. Mr. Sarfraj Anjum Mor, Advocate has filed vakalatnama for respondent No. 2. The same be taken on record.

Learned counsel for respondent No. 2 has vociferously opposed the grant of regular bail to the petitioner by arguing that the allegations made against the petitioner are serious in nature and hence he does not deserve to be enlarged on bail.

6. I have heard counsel for the parties and have gone through the available records of the case.

7. The petitioner was arrested on 07.01.2024 whereinafter investigation was carried out and challan stands presented on 16.03.2024. Total 15 prosecution witnesses have been cited and culmination of the trial will take its own time. The rival contention of learned counsel for the parties; regarding the consensual friendship between the petitioner and the victim which was not to the liking of the family of the victim & the veracity/weightage required to be attached to the statement made by the victim under Section 164 of Cr.P.C; 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 11.07.2024 filed by learned State counsel, the petitioner has already suffered incarceration for a period of more than 06 months & 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 case.

8. 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.

9. 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.

10. Ordered accordingly.



CRM-M-30888 of 2024 **5**

11. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.
12. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(SUMEET GOEL)
JUDGE

12.07.2024
P.Singh

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