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

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DATE OF DECISION :- 12.08.2024

Vishal **...Petitioner**

Versus

State of Haryana **...Respondent**

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. Randeep Singh, Advocate
with Mr. Gurvinder Singh, Advocate for the petitioner.

Ms. Priyanka Sadar, AAG, Haryana.

SUMEET GOEL, J. (Oral)

The instant petition has been filed on 04.07.2024 under Section 439 of Cr.P.C, 1973 for grant of regular bail.

As per the judgment rendered by this Court titled '*Abhishek Jain Versus State of U.T. Chandigarh and another*' (CRM-M-31808 of 2024) 2024PHHC085784, the instant petition is not maintainable under Section 439 of Cr.P.C, 1973. However, keeping in view the entirety of facts and circumstances of the case especially that the instant petition pertains to regular bail, the instant petition is directed to be considered as a petition under Section 483 of BNSS, 2023.

1. Present petition has been filed for grant of regular bail to the petitioner in case bearing FIR No.200 dated 20.05.2023, registered for the offences punishable under Sections 363,366A of IPC, Section 4 of POCSO Act and Section 3(2)(v) of SC/ST Act at Police Station Taraori, District Karnal.

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

“Contents of complaint are as under: To, S.H.O. Police Station Taraori. Sir, It is submitted that I, Darshana Devi w/o Satnam caste Oad Rajput, am resident of Pehalwan Colony Ward No.15 Taraori. That on 19.05.2023 at 2 [p.m.my](#) daughter Rekha went out of home without informing. Age of my daughter is 17 Years and she is wearing suit of light blue colour. Vishal s/o Kartar Singh enticed and abducted my daughter. Sd. R.T.I. Darshan Devi w/o Satnam Singh caste Oad Rajput Mob: 90530-18849, Vishal 8950900655, 8059885371. Place: Police Station. At this time, it is recorded that myself ASI Manjeet Singh is present in the Police Station. One written complaint has been received on 19.05.2023 at 2 p.m. moved by Darshana w/o Satnam caste Oad Rajput for registration of FIR against Vishal s/o Kartar Singh r/o Taraori for enticing and abducting the complainant's daughter Rekha aged 17 years by the accused. From the perusal of complaint offence under sections 363,366-A IPC is found to have been committed and FIR No. 200 dated 20.05.2023 under sections 363,366- A IPC is registered with Police Station Taraori. I initiates investigation by taking the police file alongwith original complaint in police possession. Special report of FIR will be to sent to higher officials through Email ID of SHO and the copies of FIR are being sent to officials thorough post.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 25.06.2023. Learned counsel for the petitioner has further argued that there was a consensual friendship between the petitioner and the victim which turned sour later on & hence the petitioner has been falsely implicated into the FIR in question. Learned counsel for the petitioner has further submitted that the complainant/mother of the victim has turned hostile when examined as prosecution witnesses. Learned counsel

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for the petitioner has further argued that there are material discrepancies in the testimony made by the victim when examined as 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 09.08.2024 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 25.06.2023 whereinafter investigation was carried out and challan stands presented on 25.09.2023. Total 21 prosecution witnesses have been cited out of which the material/private prosecution witnesses namely the victim as also the complainant/mother of the victim stand examined. Two official witnesses have also been examined. The rival contention of learned counsel for the parties; as to whether there was consensual relationship between the petitioner and the victim which turned sour later and on account whereof the petitioner has been falsely implicated into the FIR in question & as also the evaluation of the testimony of the victim in light of the mother of the victim/complainant turning hostile; 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 09.08.2024 filed by learned State counsel, the

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petitioner has already suffered incarceration for a period of 01 year 01 months and 13 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 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/Illaqqa 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.



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- 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

12.08.2024
P.Singh

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