



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

**226** **CRM-M-31823 of 2024**  
**DATE OF DECISION :- 31.07.2024**

**Ashish Sharma** **...Petitioner**

**Versus**

**State of Haryana** **...Respondent**

**CORAM: HON'BLE MR. JUSTICE SUMEET GOEL**

**Present:-** Ms. Gurmeet Kaur, Advocate for the petitioner.

Ms. Ankita Ahuja, AAG, Haryana.

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**SUMEET GOEL, J. (Oral)**

The instant petition has been filed on 02.07.2024 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.568 dated 10.06.2023, registered for the offences punishable under Sections 323,376(2)(n),506,109 of IPC, Sections 6,17 of POCSO Act and Sections 75, 87 of the Juvenile Justice Act at Police Station Sadar, Karnal, District Karnal, Haryana.



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

*“FIR No. 153 dated 26.05.2023, U/s 323, 506 of IPC and section 6 of POCSO Act at Police Station Ram Nagar, Karnal. Sir, there is a request that, I Nahim Miyan S/o Salakat Miyan R/o Haquqat Colony, Gali No.6, District Karnal, on the basis of the statements of Nahim Miyan, FIR No. 153 dated 26.05.2023, U/s 323, 506 of IPC and section 6 of POCSO was registered at police station Ram Nagar, Karnal "To the protection officer Mahila Police Station Karnal, Subject: complaint against (1) Veena (2) Ashish (3) Bahul, R/o Balaji Colony, District Karnal, Mob. No. 7056401134, 8168939307. It is humble request that I am Nahim Miyan S/o Sadaqat Miyan resident of Haqiqat Colony, street No. 6, District Karnal. I had four children out of which there were three boys and one girl, Sir, earlier I and my family used to live in rented house of the above mentioned culprits 6 months ago. Then, due to our poor condition, my landlord Veena said that give me your daughter Sharun Khatun. Then I gave them my daughter. I thought that my daughter will be brought up well. Then after some time the above said culprits started harassing my daughter. Along with this, the above culprits abused and beat her every day and Ashish and Rahul do wrong things to her and her mother Veena does not say anything to them whereas my daughter Sharun Khatun is 15 years old and is minor, someone told us that something wrong was happening with your daughter. So as soon as I went to see, the above said culprits also abused us and said that if you come back here, they will kill you and neither will be let out daughter go, and even not allowed to meet her. Now this is happening to her every day and I and my brother Sahfulla Mian when we go there, Both the boys say that they will kill us. You are requested to save our daughter from the above mentioned culprits and strict legal action should be taken against them. I will be thankful to you. Investigation of this case was carried out by*



*Roshni, Police station Sadar Karnal, During the investigation, on 29.05.2023, the considering of the victim was done through the child welfare committee, the statement U/s 164 Cr.P.C. was recorded before the Court, and medical examination was conducted. The incident site was inspected at the instance of the victim. During the inspection of the incident spot, the incident mentioned in the case was found to have taken place in colony, Haqiqat Nagar, Karnal, Police Station Ram Nagar in Balaji Colony, Colony is in the jurisdiction of Karnal, due to which this case was registered in police station Ram Nagar, Karnal, The place of incident described in Balaji Colony Haqiqat Nagar has been found to be under the jurisdiction of Ghoghadi Pur Road, Karnal police station. On which Akraaj report is registered in the case on 07.06.2023. after sending the Akhraaj report of the above mentioned case, it is requested that in this regard, order should be given to register a case in Sadar Karnal, Police Station and conduct investigation, SD/- Jagu Singh, SHO, Police Station, Ram Nagar, Karnal. Dated 08.06.2023, L/SI Roshni Devi presnet at police station, one written complaint moved by Nahim Miya S/o Salakat Miyan, R/o Haqiqat Colony, street No.6, District Karnal, against (1) Veena (2) Ashish (3) Rahul, R/o Balaji Colony, District Karnal, regarding daughter of complainant namely Shahrin Khatun, aged 15 year, adopted by the above said culprits, and raped by the son of accused, beaten by them and also threaten here to kill, on this statement FIR No. 568 dated 18.06.2023, U/s 323, 506 of IPC and 6 of POCSO was registered at police station Ram Nagar, Karnal. Special reports of the case are prepared and sent to the Higher officers through E-mail.”*

3. Learned counsel for the petitioner has submitted that the petitioner is in custody since 20.06.2023. Learned counsel for the petitioner has further submitted that total 23 prosecution witnesses have been cited out of which two part has been examination of the victim has been partly

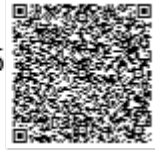


recorded wherein after an application under Section 319 of Cr.P.C has been preferred for summoning of one Rahul as an additional accused. Learned counsel for the petitioner has further submitted that the petitioner has been falsely implicated into the FIR in question. Learned counsel for the petitioner has further submitted that there is no medical evidence available on record to support the case of the prosecution. 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 29.07.2024 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 20.06.2023 whereinafter investigation was carried out and challan stands presented on 06.09.2023. Total 23 prosecution witnesses have been cited and culmination of trial, but of course, will take its own time. This aspect assumes more significant as an application under Section 319 of Cr.P.C has been preferred for summoning of additional accused namely Rahul which application is pending adjudication before the concerned trial Court. The rival contention of learned counsel for the parties; as to whether the petitioner has been falsely implicated into the FIR in question and whether there is any medical evidence available on record to support the case of the prosecution; 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. The petitioner is a young man aged 23 years with no criminal antecedents. As per custody certificate dated 29.07.2024 filed by learned State counsel, the petitioner has already suffered incarceration for about 01 year and 01 month and 20 days.

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.

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**

**31.07.2024**  
*P.Singh*

|                           |        |
|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether Reportable        | Yes/No |