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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-33414-2023 (O&M)
Date of Decision: 16.01.2024

SAGAR KUMAR

.. Petitioner

Vs.

STATE OF HARYANA

..Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Shvetanshu Goel, Advocate for the petitioner.

Ms. Priyanka Sadar, AAG, Haryana.

Mr. Sajjan, Advocate and
Mr. Parveen Chauhan, Advocate
for the complainant.

...
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.0186 dated 08.07.2022, registered for the offences punishable under Sections 363/366-A/420/467/468/471 IPC, 1860 and (Section 6 of POCSO Act added later on) at Police Station Nigdhu, District Karnal.
2. The case set up in the FIR in question is as follows:-

“Sir, the brief facts of the case are that the application was received on 08.07.2022 in the Police Station which is as under:- To, SHO, Police Station Nigdhu, sir, it is stated that I, Rakhi wife of Ramesh Singh, Resident of Village Nigdhu, Police Station, Nigdhu, District Karnal and I have three children. On 06.07.2022 my daughter Vansika aged around 18 years on left from home to go for Coaching Centre at Pehowa and has not returned back. We at our own amongst are relatives and nearby areas but have not been able to find any clue. The whereabouts of my girl may be searched the appearance of my girl is color wheatish agile body wearing pant palazzo, height 5.43 inch age 18 years wearing mehroon colored Punjabi juti. Signed Rakhi W/o Ramesh Singh, Village Nigdhu, Police Station, Nigdhu District Karnal. Mobile No. 8295467326.”

3. Learned counsel for the petitioner submits that the accused was arrested on 17.07.2022. After investigation, challan has been presented and the trial is underway. Learned counsel has also referred to a criminal writ petition (CRWP-6568-2022) filed in this Court to argue that the petitioner as also the prosecutrix had solemnized marriage and had thereafter approached this Court for grant of protection. Learned counsel for the petitioner has further referred to the order dated 11.07.2022 passed by this Court (copy whereof has been appended as Annexure P-3) to submit that actually the petitioner and prosecutrix were in consensual relationship. It is further argued that due to supervening circumstances, the relationship broke apart which has led to registration of FIR in question. Learned counsel for the petitioner further, while referring to the statement of the petitioner recorded under Section 164 of Cr.P.C. and her testimony recorded in Court as PW-1, has submitted that the instant case is one of the improvised version. Accordingly, the learned counsel for the petitioner has prayed for grant of regular bail to petitioner-Sagar Kumar.

4. Learned State counsel as well as learned counsel for the complainant 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. After the accused was arrested on 17.07.2022, challan stands filed wherein total 14 prosecution witnesses have been cited. The prosecutrix as also the complainant (mother of prosecutrix) stand examined.

The petitioner has undergone incarceration for more than 1 year and 6

months and is not shown to be involved in any other case. The rival contentions made by learned counsel for the parties regarding improvised version and the factum of the petitioner and the prosecutrix having solemnized marriage will 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 rights of either of the parties. No tangible material has been brought forward to indicate that there is likelihood of the petitioner absconding from the process of law or interfering with the prosecution evidence. Therefore, in my considered opinion, further detention of the petitioner 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 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 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 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.

16.01.2024

(SUMEET GOEL)
JUDGE

Jasmine Kaur

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No