

CRM-M-32152-2024 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-32152-2024 (O&M)

Date of Decision: 27.08.2024

BHARAT LAL

.. Petitioner

Vs.

STATE OF HARYANA

..Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. G.C. Shahpuri, Advocate for the petitioner.

Ms. Priyanka Sadar, AAG, Haryana.

...

SUMEET GOEL, J. (Oral)

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

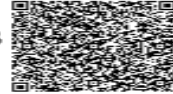
As per the judgment rendered by this Court titled '*Abhishek Jain Vs. State of U.T. Chandigarh and another*' (CRM-M-31808-2024) **2024PHHC085784**, the instant petition is not maintainable under Section 439 of Cr.P.C., 1973. However, keeping in view the entirety of facts and circumstances of the case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

Present petition has been filed for grant of regular bail to the petitioner in case bearing FIR No.799 dated 21.12.2023, registered for the offences punishable under Sections 376, 354-A and 506 of IPC at Police Station Mujessar, Faridabad, District Faridabad.

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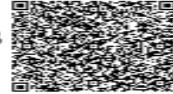
2. The case set up in the FIR in question (as set out by the petitioner in the present petition) is as follows:-

*“To the SHO, Police Station Sangam Vihar, New Delhi.
Subject: Complaint against father-in-law for molesting and for developing physical relationship forcibly. Sir, 1, Kamlesh Kumar d/o Sh. Mishri Lal, am resident C-802, Sangam Vihar, New Delhi 110080. I got married with Nitin Mehra s/o Bharat Lal Mehra, resident of H. No.2577, Sanjay Colony, 33 Ft, Road Sector-23, Gali No.22, Faridbad, Haryana on 2.12.2022. After sometime marriage, everything was fine, however, immediately after sometime, the intention of my father-in-law became ill and he used to keep an evil eye upon me. He would molest me and touch me. I was not comfortable with all this. One day, when I went to serve him tea, he caught held my hand. When I narrated the whole story to my husband and mother-in-law, my husband told me that this person can only be brought to the line by you and my mother-in-law told me that this person has messed up our house and you should keep distance this person. Despite the fact that there were two toilets in the house, my father-in-law used to come in the toilet of my room. He would stare at me with bad eye. One day when my husband was not at home and my mother-in-law and sister-in-law (Jethani) were on upstairs; my father-in-law came to my room and started talking with me indecent language that Nitin is a bastard. You should keep distance from him. You do not know but I know him very well. You should kick on his back and he should not be permitted to touch you and you should start living with us and start sleeping with me. (I will make you happy). I got worried on hearing all this from his mouth and ran away towards upstairs and come down stairs only when my husband reached at home. I narrated the whole to him, however he did not say anything. I was amazed that on hearing all this, he did not say anything to his father. After sometime on 18 March, I came to my parental house and apprised my family members about the misdeeds of my father-in-law. Upon this, my sister-in-law made phone call and made conversation with my mother-in-law and said that what is going on in your house that a father-in-law is molesting his daughter-in-law and in spite of this, you are not raising any objection. After this, my in-laws stopped picking up our phone call and did not come to fetch me. After waiting sufficient long time, when my parents came to my in-law's house to drop me, these people made my father-in-law run from the back gate and we were not allowed to enter in the house. Thereafter, I dialed at 112 and called the police and all the persons were called by the police in Police Station. I got registered complaint in the police station against my father-in-law, however, no action was taken. Compromise was got effected between both the parties and I was sent to my matrimonial home. After passing sometime, one day at about*

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11:30'o clock, when my husband and mother-in-law were upstairs, my father-in-law came into my room under the influent of liquor started molesting me. I was asleep and he overpowered me forcibly and started fingering in my private part. They caught me very badly and tried to make physical relations with me forcibly. He inserted his finger in my private part. I somehow managed escaped myself and ran towards upstairs. I informed my mother-in-law and other family members of the house that my father-in-law is molesting me. When I tried to dial at 112, my mother-in-law prevented me by saying that you father-in-law has committed mistake under the influence of liquor. You should not call the police otherwise it will affect our reputation. Thereafter, I made a phone call to my family members and narrated the whole story to them. In the next morning, my family members came and a meeting was convened on 04.06.2023. My family members were offended and it was decided in the meeting that since I was in danger at the hands of my father-in-law, I will be kept in rent accommodation by the boy. However, after just 15 days, the boy left me in the rented accommodation. When I made a call to him, he told that I should inform my family and they will get you. I will not return. I was frustrated and I kept on waiting till 10'o clock, but he did not come. Thereafter, I went to my in-laws and I saw his parked bike. On inquiry, it came to be known that he was in home. I was not permitted to enter in the house by my mother-in-law. I kept on waiting outside the house till 2-3 hours but these people did not open the gate. I kept on waiting whole night but they did not come. In the morning, my parents reached and thereafter, we went to Police Station for report, however, the police did not register any complaint against my father-in-law. I visited in the police station continuously 10-15 days, but no FIR was registered. Now, I am residing in C-802, Sangam Vihar in my own house. It is, requested that strict legal action be taken against my father-in-law Bharat Lal Mehra and he may be arrested. Thanking you. Sd/- Kamlesh Kumari."

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 18.05.2024. Learned counsel for the petitioner has further argued that there was matrimonial discord between the son of the petitioner and the victim & hence the petitioner has been falsely implicated into the FIR in question. Learned counsel for the petitioner has submitted that the police has not even considered to record the statement of the son of the petitioner as also wife of the petitioner so as to unearth the entire truth.

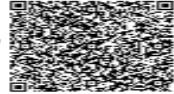
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Learned counsel for the petitioner has further submitted that the police is relying upon an audio conversation between the victim and her bhabhi but the same has not even been sent to FSL & hence the same would not withstand the test of judicial scrutiny. Thus, regular bail is prayed for.

4. Learned State counsel has filed an affidavit of OP Narwal, IPS, Commissioner of Police, Faridabad in compliance of order dated 20.08.2024 passed by this Court and the same is taken on record. 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.

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

6. The petitioner was arrested on 18.05.2024 whereinafter investigation was carried out & challan was presented on 03.06.2024. Total 14 prosecution witnesses have been cited and culmination of the trial will take its own time. The rival contention of the learned counsel for the parties; as to whether the petitioner has been falsely implicated into the FIR in question; the affect of the police not recording the statement of the son of the petitioner as also wife of the petitioner during the course of investigation & the pen drive (containing audio conversation between the victim and her bhahi) not being sent to FSL; 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

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learned State counsel, the petitioner has suffered incarceration for more than 03 months and 09 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 present case.

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/Illaq Magistrate.
- (vii) The petitioner shall not in any manner try to delay the trial.



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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.

27.08.2024
Jasmine Kaur

(SUMEET GOEL)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No