

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

CRM-M-33544 of 2023

DATE OF DECISION :- 24.01.2024

Manish

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. S.K. Tripathi, Advocate for 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. 0229 dated 09.05.2022, registered for the offences punishable under Sections 363/366A/342/506 of IPC and Sections 6/17 of POCSO Act, 2012 at Police Station Kheripul, District Faridabad.

2. Counsel for the petitioner submits that the petitioner was arrested on 10.05.2022 and after carrying out investigation, challan was presented. Learned counsel for the petitioner has further relied upon the statements made by the prosecutrix (PW2) as also father of the prosecutrix (PW3) to submit that the material witnesses have turned hostile and thus the trial is not likely to culminate into conviction, therefore, regular bail be granted to the petitioner.

3. Learned State counsel has filed the status report by way of affidavit of Sh. Rajeev Kumar, HPS, Assistant Commissioner of Police, Central Faridabad in the Court today. The same be taken on record. She has opposed

the present petition arguing that the allegations raised are serious in nature and thus the petitioner does not deserve the concession of regular bail.

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

5. The accused is in custody since 10.05.2022; challan was presented on 21.06.2022 wherein total of 21 prosecution witnesses have been cited. The rival contentions regarding the weightage required to be attached to the testimony of PW2 (prosecutrix) as also PW3 (father of prosecutrix) who have turned hostile 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. As per the custody certificate dated 23.01.2024, the petitioner has suffered incarceration for a period of more than 1 year 8 month & is not shown to be involved in any other case. No tangible material has been brought on record to show that there is likelihood of the petitioner absconding from the process of justice or interfering with the prosecution evidence. In the considered opinion of this Court, further detention of the petitioner as an under trial is not warranted.

6. 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 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.

7. 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.

8. Ordered accordingly.

9. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.

10. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(SUMEET GOEL)
JUDGE

24.01.2024
P.Singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No