

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

215

CRM-M-33621-2023

Date of decision: 03.04.2024

SAHIL

....Petitioner

V/s

STATE OF HARYANA

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Jasdev Singh Thind, 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.403 dated 14.07.2022 registered for the offences punishable under Sections 363, 366-A, 376(3), 506 of IPC and Section 4 of the Prevention of Children from Sexual Offences Act, 2012 at Police Station District Civil Lines, Hisar, District Hisar.

2. The case set up in the FIR in question is as follows:-

“To, Station Incharge, PLA, Hisar with subject: Taking Heena from Home by way of misleading and seduce, Respected Sir, that I XXXXXXXX, residence of XXXXXXXX. I have two daughters and one son. On dated 14.07.2022, I and my children were sleeping at our home, when I time around 1.30 night wore up fro drinking water so my daughter XXXXX age 13 years and 9 months was not there. XXXX wear T-shirt of cream colour and black Pajama that Sahil son of Bittu abducting/enticing away XXXXX I pretext of marriage, that I have suspicion that Sahil son of Bittu, Sarita,

Karan, Sagar sons of Bittu, resident of Patel Nagar, Hisar and Sunny son of Sandeep, resident of Patel Nagar are involved in this abducting and my daughter also taken 75 thousands rupees and one gold chain with her. There was earlier quarrel with them. Kindly take strict action against them all. Find my daughter and recover her.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 16.07.2022. Learned counsel for the petitioner has further argued that the victim while making statement under Section 164 of Cr.P.C. on 16.07.2022 had not made any allegations against the petitioner and had rather stated that there was no mistake/culpability on the part of the petitioner herein whereas in the statement made before the Court (during the course of trial) she has supported the prosecution version. Learned counsel for the petitioner has further submitted that the victim had changed her stance under the pressure of her family. Learned counsel has further urged that the petitioner is a young man aged about 20 years and has no criminal antecedents. Thus, regular bail is prayed for.

4. Learned counsel for the State has opposed the present petition by arguing that the allegations raised are serious in nature and, thus, the petitioner does not deserve the concession of 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 16.07.2022 whereinafter investigation was carried out & challan was presented on 23.08.2022. Total 19 prosecution witnesses have been cited and culmination of the trial will take its own time. The testimony of the victim as a prosecution witness already stands recorded. The rival contention of the learned

counsel for the parties; regarding the weightage required to be attached to the statement made by the victim under Section 164 of Cr.P.C. vis.a.vis. the statement made by the victim as a prosecution witness; 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 about 20 years with no criminal antecedents. As per the custody certificate dated 02.04.2024 filed by the learned State counsel, the petitioner has suffered incarceration for more than 01 year and 08 months & 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 learned 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.

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

April 03, 2024
poonam

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No