



CRM-M-32713 of 2024 (O&M) **1**

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

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**CRM-M-32713 of 2024 (O&M)
DATE OF DECISION :- 25.07.2024**

Gurdas alias Mangal

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. Angrej Singh Sarwara, Advocate for the petitioner.

Mr. Anup Singh, AAG, Punjab.

SUMEET GOEL, J. (Oral)

The instant petition has been filed on 08.07.2024 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.41 dated 13.06.2023, registered for the

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offences punishable under Sections 363,366-A of IPC at Police Station Khanauri, District Sangrur.

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

“Copy of statement Narain Ram, son of Channa Ram, resident of village Mandvi Khurd, police station Khanauri, district Sangrur, aged about 46 years, mobile number 81468-57829, stated that I am a resident of the above address and work as a laborer. I have four daughters and one son. My three elder daughters are married. My youngest daughter, Ram Pyari, who is about 16 years and 4 months old, and my younger son, Babu Lal, were with us. Last night on 12.06.2023, at around 10:00 PM, I, along with my wife Bala Devi, daughter Ram Pyari, and son Babu Lal, had dinner and went to sleep in the courtyard of our house. At around 11:30 PM, I got up to urinate and noticed that my daughter Ram Pyari was not on her bed. I woke up my wife, and we searched for our daughter but could not find her. We have searched for my daughter Ram Pyari among our relatives and other places but have not found her. I now believe that Subhash, son of Bansi Ram, and Mangal, son of Krishan, both residents of Mandvi, have enticed her away with the promise of marriage and have taken her. Today, along with Sukhwinder Singh, son of Lala Ram, resident of Mandvi, we were going to the police station to report this when we met you and the police party near Sahara Club Khanauri. I have given you this statement, which has been read and is correct. Action should be taken. LTI Narain Ram. Supporting statement by Sukhwinder Singh, son of Lala Ram, resident of Mandvi, police station Khanauri, district Sangrur, mobile number 98594-09900. Verified and signed by Sukhwinder Singh ASI, police station Khanauri, on 13.06.2023.

Police Action.

Today, I, along with my team members, were on patrol near Sahara Club Khanauri with a private vehicle, laptop, and printer. Narain Ram, along with Sukhwinder Singh, came to us and gave his written statement. The statement was written down, read aloud, and acknowledged by Narain Ram with his left thumb impression.

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Sukhwinder Singh verified the statement. I have verified it. The statement revealed an offense under sections 363 and 366A IPC, hence, the statement is being forwarded for the registration of a case against Subhash, son of Bansi Ram, and Mangal, son of Krishan, both residents of Mandvi. This case file is being sent with the statement of Narain Ram for investigation by ASI Babu Singh 2166/Sang, police station Khanauri. Special reports are being sent by hand through Constable Bhupinderpal Singh 1816/Sang to the area magistrate and concerned officers. Information is being sent to the in-charge control room Sangrur via email. Police Station Khanauri, Date: 13.06.2023.”

3. Learned counsel for the petitioner has argued that the petitioner was arrested on 12.02.2024. Learned counsel has further argued that there was friendship between the petitioner and the victim which was not to the liking of the family of the victim & hence the petitioner has been falsely implicated into the FIR in question. Learned counsel for the petitioner has further argued that the date of birth of the petitioner is 28.06.2005 and accordingly an application (for declaring the petitioner as a juvenile) is also pending adjudication before the concerned Court. 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 24.07.2024 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 12.02.2024 whereinafter investigation was carried out and challan stands presented on 09.04.2024.

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Total 24 prosecution witnesses have been cited and culmination of the trial will take its own time. The rival contention of learned counsel for the parties; as to whether the petitioner is a juvenile as also whether the petitioner has been falsely implicated into the FIR in question; 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. As per custody certificate dated 24.07.2024 filed by learned State counsel, the petitioner has already suffered incarceration for about 5 months and 12 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 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

25.07.2024
P.Singh

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No