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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-34465-2024 (O&M)

Date of Decision: 25.07.2024

AJIT

.. Petitioner

Vs.

STATE OF HARYANA

..Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Mandeep Singh Kundu, Advocate for the petitioner.

Ms. Priyanka Sadar, AAG, Haryana.

...

SUMEET GOEL, J. (Oral)

1. Present petition has been filed under Section 483 BNSS for grant of regular bail to the petitioner in case bearing FIR No.19 dated 01.02.2024, registered for the offences punishable under Sections 363, 366, 342 and 376(2)(n) of IPC and Section 6 of POCSO Act at Police Station Sanoli Panipat, District Panipat.

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

“Respected SHO Sahab it is requested that I Ashok Paswan son of Rampat Paswan resident of Village Samera Hardo Tola Belwa District Kushi Nagar U.P. presently residing at N.S.W.N. Factory Village Kurar. I have five Children, three girls and two boys. My daughter named Sapna who is 14 years old and my family is residing in a room in factory and Ajit son of Rajender resident of Gali No.3 Shiv Mandir, near Raj Nagar is residing in adjoining room. He called my daughter Sapna on dated 24.01.2024 for talking and he bolted his room and he forcibly raped my daughter Sapna and on dated 25.01.2024 he took my daughter Sapna to Rohtak for marriage. Here also, he again raped my daughter Sapna several times. After returning home, my daughter narrated entire incident to me and my wife. It is humbly requested you to please take legal action against

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Ajit and provide justice to my daughter. Applicant Ashok Mob:- 8168561905 Dt. 01.02.2024.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 02.02.2024. Learned counsel for the petitioner has further argued that the prime private prosecution witnesses, namely, victim, father of the victim/complainant as also mother of the victim when examined as PW1 to PW3 respectively had not supported the prosecution story and have been declared hostile by the learned Public Prosecutor conducting the trial & hence in all likelihood the trial is not likely to culminate into conviction. Thus, the regular bail is prayed for.

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.

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

6. The petitioner was arrested on 02.02.2024 whereinafter investigation was carried out & challan was presented on 15.03.2024. Total 24 prosecution witnesses have been cited out of which 8 stand examined. It is not in dispute that the prime private prosecution witnesses, namely, victim, father of the victim/complainant as also mother of the victim have already been examined. The rival contention of the learned counsel for the parties; regarding the weightage required to be attached to the testimonies of the hostile prime prosecution witnesses; 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

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absconding from the process of justice or interfering with the remaining prosecution evidence. As per the custody certificate dated 24.07.2024 filed by the learned State counsel, the petitioner has suffered incarceration for more than 05 months and 22 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/Illaqha Magistrate.

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(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.

25.07.2024
Jasmine Kaur

(SUMEET GOEL)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No