

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

211

CRM-M-34744-2023

Date of decision:12.01.2024

Gulshan

....Petitioner

V/s

State of Haryana

....Respondent

**CORAM: HON’BLE MR. JUSTICE SUMEET GOEL**

Present: Mr. Gagan Pradeep S. Bal, Advocate for the petitioner.  
Ms. Priyanka Sadar, AAG Haryana.

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**SUMEET GOEL, J.**

Reply by way of affidavit of Vinod Shankar, Deputy Superintendent of Police, Headquarter, Hisar, has been filed, which is taken on record.

1. This is second petition filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.580 dated 07.08.2020, registered for the offences punishable under Sections 342, 376-D IPC, at Police Station HTM Hisar, District Hisar. The earlier petition was dismissed by coordinate bench of this Court on 20.09.2021 passed in CRM-M-17165-2021

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

*“My name is Tannicha Ratoratjitrachod Nic name Lily father name PichaiAddress, 755 moon 16 Bung, Maung Amnalcbroren, Amatchroen, 37000, Thailand Mobile 66994541949, 919509970092. I came to India 3 March 2020, I live in Delhi first and I come to Hisar, Haryana by taxi after there I reside with my friend Nicha in Hisar in a room. I have plan to come back Thailand 15.02.2020 because my Visa finished 04.09.2020 (September) I come in India to see Golden Temple, Jammu, Lakdak etc.*

*On 5 August 2020 I live in Lazeez Hotel in Lajpat Nagar, Hisar 125001 (Haryana) and on 6 August 2020 I live in Residency Hotel in 53-54 Red Square Market, Hisar. I come to this Hotel with my friend 4 PM. My friend name is Nalintip. At about 10 PM. On the same day my friend moto me to take drink with him and after there me and my friend moto take drink in his Cars Suzuki Cars. My friend name nalintip in this Cars with me and moto after there Issaan come on the ways with Audi Cars on the request of moto and Nalintip, Moto, Issaan and I person sitting in the Audi Cars and go to Hotel the Kings for take beer. I feeling drink and was sleep moto drop me in Resency Hotel for take rest at about 2.30 am moto, my friend drop in Hotel and go away. Manager Amit, Gulshion Manager and one another person drop me in my room after there one persons, name Gulshion him not go and make relation (sexual relation) with me without my consent and forcibly after there him go away my room and one another man came to my room and try to make relation with me. I therend to him there I Call Police, After there him ran away for my room, I go downstairs but door Hotel Lock I can't outside Hotel and call to my friend Motor and Nailntip and told them all incidence. I wait 40 minute in the Hotel, have customer hotel 2 persons wants go outside, Manager open door I Can't go outside Hotel I running far hotel and sit near tree in the park have 2 persons meet me cry alone, him asked me why you cry? can I hely you. I told him everything then three persons call so police after there police come in the Hotel I also call my Friend Nalintip and Moto. I told to the Police officers what happened with me. I also told him there what happened about me now. I want to take legal action against him. Sd/- Tunchin Rataratjitrachod. Attested L/ASI Usha PS HTM HSR Dt. 07.08.2020.”*

3. Learned counsel for the petitioner contends that the petitioner is in custody since 07.08.2020 and all material prosecution witnesses have been examined. In these circumstances, it is submitted that no useful purpose would be met by further incarceration of the petitioner.

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. Referring to para 10 of the affidavit filed today, learned State counsel does not controvert the fact that

all material prosecution witnesses have been examined. She submits that there is no change of circumstances after the dismissal of first bail application on merits.

5. In rebuttal, learned counsel for the petitioner points out that the earlier bail petition (CRM-M-17165-2021) was dismissed on 20.09.2021 by this Court whereinafter petitioner has remained in further incarceration for 01 year and 04 months.

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

7. The petitioner is in custody since 07.08.202; all prosecution witnesses have been examined and no tangible material brought forward to show any reasonable apprehension of the petitioner fleeing from the process of law or tampering with the prosecution evidence. Keeping in view entirety of the facts and circumstances of the case, this Court does not deem it appropriate to keep the petitioner in further detention.

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

9. 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.

10. Ordered accordingly.

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

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

(SUMEET GOEL)  
JUDGE

January 12, 2024  
*Ajay*

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