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

229 **CRM-M-33577 of 2024**
DATE OF DECISION :- 31.07.2024

Mohammad Sohrab **...Petitioner**

Versus

State of Haryana **...Respondent**

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. Dheeraj Narula, Advocate
with Mr. H.S. Sandhu, Advocate for the petitioner.

Ms. Ankita Ahuja, AAG, Haryana.

SUMEET GOEL, J. (Oral)

The instant petition has been filed on 11.07.2024 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.346 dated 23.11.2023 registered for the offences punishable under Sections 313,342,376(2)(n),406 IPC. However, charges were framed under Sections 313,420,467,468,471 read with Section 34 of IPC and Section 5(2),5(3) and Section 5(4) of the Medical Termination

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of Pregnancy Act, 1971 read with Section 34 of IPC at Police Station Sector-9A, Gurugram, District Gurugram, Haryana.

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

To, SHO Sahab PS Sector -9A Gurugram Sir, it is requested that I Raj Bala alias Annu aged 26 years d/o Billu r/o House no.312/22 near Gurudwara presently residing at Surat Nagar Gali 6, Frase-2, H No. 1038 Sector 9 Gurugram on rent and about 8-9 months back, I became friend of Naveen alias Veer and he said to me that I am in love with you and I want to solemnize marriage with you and I will keep you happy and he took me to his house at Laxman Vihar Daultabad and made physical relationship without her wishes and the mother of Veer ousted us from the house and Veer used to keep me in house no. 1030, Gali no.6, Phrase-2, Surat Nagar and we start residing there as husband and wife and there also Veer developed physical relations with her and for the last 8-9 months, Veer committed rape with her and now he is refusing to solemnize marriage with her and now for the last 15-20 days, he is not residing with me and his whereabouts are not known. On 17.11.2023, Veer came at my room and went back after taking my mobile phone and he after taking out my sim from mobile phone went away after throwing the sim at the shop of the doctor. Sir, Veer has fled away after taking my gold chain and mobile phone. The mobile nos. of Veer are 7027986453, 9671723720 and 3-4 months earlier, Veer got my abortion done and he used to keep me locked in rented house and he did not allow me to go out side. Sir, Veer has spoiled my life and Legal action be taken against Veer. He committed rape upon me against my wishes under the pretext of marriage. Strict legal action be taken against Naveen alias Veer. He lastly developed physical relations with her on 3.11.2023. The address of Naveen alias Veer s/o Mukesh r/o Lakshaman Vihar, House no.



*4112/436, House of Pankaj Gupta. Sd/ Raj Bala alias Annu
8743846535, 9667982247 Dated 23/11/23 Attested by
Bhagwati Shetty Legal Advisor Dt 23.11.23.”*

3. Learned counsel for the petitioner has submitted that the petitioner is in custody since 18.01.2024. Learned counsel for the petitioner has further submitted that the petitioner is a qualified medical practitioner and has been falsely implicated into the FIR in question at the instance of the complainant. Learned counsel for the petitioner has further submitted that co-accused namely Naveen Kumar @ Vir and Sunita @ Sneha have been granted the concession of regular bail by the Sessions 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 29.07.2024 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 18.01.2024 whereinafter investigation was carried out and challan stands presented on 22.02.2024. Total 25 prosecution witnesses have been cited out of which none have been examined till date & culmination of trial, but of course, will take its own time. The rival contention of learned counsel for the parties; as to whether the petitioner is a qualified medical practitioner and also as to whether the petitioner has been falsely implicated into the FIR in question at the instance of the complainant; shall be gone into during the course of trial. This Court

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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 29.07.2024 filed by learned State counsel, the petitioner has already suffered incarceration for about 06 months and 08 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.



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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

31.07.2024
P.Singh

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