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

222 **CRM-M-34357 of 2024**
DATE OF DECISION :- 25.07.2024

Sonu **...Petitioner**

Versus

State of Haryana **...Respondent**

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. Rajesh Bansal, Advocate for the petitioner.

Ms. Priyanka Sadar, AAG, Haryana.

SUMEET GOEL, J. (Oral)

The instant petition has been filed on 16.07.2024 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.171 dated 04.10.2023, registered for the offences punishable under Section 365 of IPC (Sections 363,366 of IPC added later on and Section 365 of IPC deleted) at Police Station Bapoli, District Panipat.



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 application is attached. To, SHO, Police Station Bapoli, Sir, it is submitted that I, Krishan Kumar son of Balwan is resident of village Biholi. I have two daughters and one son. Today on 04.10.2023 at 7:30 a.m., my elder daughter Sapna, aged about 16 years went to Govt. Girls School, Biholi, who did not reach to the school nor returned till now. We are searching for our daughter and who is not found till now. Description is like this:- wearing school uniform of sky blue colour suit and blue salwar and wearing shoes. Kindly she may be searched. Applicant. Sd/-Krishan. Mobile No. 7082329523, 7495029523, dated 04.10.2023.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 22.01.2024. Learned counsel for the petitioner has referred, in extenso, to the statement made by the victim under Section 164 of Cr.P.C on 20.01.2024 as also the statement made by the victim before the Counselling Officer on 20.01.2024 to argue that no culpability can be attributed to the petitioner. 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 23.07.2024 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 22.01.2024 whereinafter investigation was carried out and challan stands presented on 27.02.2024.



Total 13 prosecution witnesses have been cited out of which only one has been examined till date, therefore, culmination of the trial will take its own time. The rival contention of learned counsel for the parties; regarding the weightage required to be attached to the statement made by the victim under Section 164 Cr.P.C as also her statement made before the Counselling Officer; 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. It would not be out of place to consider herein that the petitioner is a young man aged 23 years with no criminal antecedents. As per custody certificate dated 23.07.2024 filed by learned State counsel, the petitioner has already suffered incarceration for more than six months.

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