

2024:PHHC:102052

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

234

CRM-M-35221-2024
Date of decision: 08.08.2024

Karan

....Petitioner

V/s

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Japjit Singh Johal, Advocate
for the petitioner.

Ms. Priyanka Sadar, AAG, Haryana.

SUMEET GOEL, J. (ORAL)

1. Present petition has been filed under Section 483 of the BNSS, 2023, for grant of regular bail to the petitioner in case bearing FIR No.61 dated 15.03.2023 registered for the offences punishable under Section 4 of the Protection and Children from Sexual Offences Act, 2012 and Sections 365, 376(3) of the IPC and Section 323 of IPC (added lateron), at Police Station Bass, District Hansi.

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

“To SHO, Police Station Bass, Hansi, District Hisar. Sir, it is requested that I am Naresh Kumar son of Phool Singh resident Bass Khurd, Hansi and am working at PNB Bank Narnaund at the rank of Peon. I have three daughters and one son. My eldest daughter Monica whose age is 14 years 25.12.2007. My daughter Monika is studying in 10th standard in BMS School. On dated 25.12.2007 at around 12/1 AM in the night I along with my children was sleeping in the house. I suddenly saw that my daughter Monika was not on the bed. I

woke up my family and started searching for Monika. Then at some distance from our house car bearing number HR 82 4484 in 20 color white was standing. We went close to the car and saw that one boy name address unknown was doing bad act with our daughter and taking her honour. Our daughter was in an unconscious state and was naked. Our daughter Monikas condition was very serious. We dialed 112 on our phone for making complaint. The boy escaped from the spot before the police reached and left behind the car. Due to Monikas condition and unconscious state, we by putting her in the 112 car, took her to General Hospital, Hansi for getting admitted for treatment. Due to the condition being serious the General Hospital, Hansi referred her to General Hospital, Hisar. That by taking our daughter Monika forcible from our home, by forcible making her a hostage, by taking her far from our house in a car, by getting her in unconscious state and by doing wrong act with her with bad intention, has taken her honour. That there are injury marks on the body of my daughter Monika as she was dragged and taken forcibly. That we are not aware that there were any other boys with that boy or not. Strict legal action be taken against the unknown boy by doing very shameful act with our daughter Monika by taking her in car no. HR 82 44884, colour white i20, has defamed us. We would be thankful to you. Sd Naresh Kumar, Naresh Kumar son of Phool Singh resident of Bass Khurd Teh. Hansi, District Hisar. PH 88139-50250. Dated 15.03.2023.

Police Proceeding: One Ruqa was received tonight in the the Hansi Police Station form the control room that Monika daughter of Naresh resident Bass is referred to General Hospital Hisar from General Hospital Hansi due to sexual harassment. On which I ASI along with Constable Shiksha No. 875/HNS on not getting the MLR from GH Hansi reached GH Hisar and obtained the opinion from the doctor regarding victim Monika, then the doctor declared the victim to be fit for giving statement. I ASI reached near the bed of the victim Monika, then the father of the victim Naresh son of Phul Singh resident of Bass Khurd was found present. Who presented the above complaint before I ASI. From the contents of the complaint offence under section 365, 376 (3), IPC, 4 POCSO ACT have found to have been committed. The writing was done, and for registration of the FIR, it was sent to the police station by hand through L/CT Shiksha 875/Hansi. After the registration of the FIR, the number of the FIR be informed. The special report of the case be sent to the senior officials and the Area Magistrate. I ASI not being the competent officer in the case, the file be handed over to the competent officer.

Today Hospital Hisar. Sd/- Geeta ASI Police Station Bass dated 15.03.2023

Today at the police station: From the contents of the above writing offence under section 365, 376(3) IPC, 4 POCSO have been found to have been committed and the present FIR has registered. The computer copies of the FIR are being prepared and the special report of the case are being sent in the service of the senior officials and the Area Magistrate through mail and WAN ID. After the registration of the FIR the copy of the police file and the original writing has been sent to the spot by hand through Constable L/CT Shiksha 875 and L/ASI Geeta 71/FTB not being competent officer and PSI Kavita being the competent officer in crime against women, she is being informed to reach at the spot via telephone. The FIR has been registered in the presence of SI Krishan Dutt 55, Police Station Bass. The SHO has been informed. Note- PSI due to CCTNS code of PSI Kavita not being in the police station the code of L/ASI Geeta 71/FTB is being taken.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 23.03.2023. Learned counsel for the petitioner has further argued that there was consensual friendship between the petitioner and the victim which was not to the liking of the family of the victim and hence the petitioner has been falsely implicated in the FIR in question. Learned counsel for the petitioner has further argued that the contents of the FIR when juxtaposed with the statement made by the victim under Section 164 of Cr.P.C. on 16.03.2023 reflects that the victim has been feigning ignorance about what had happened. Thus, regular bail is prayed for.

4. Learned counsel for the State has opposed the present petition by arguing that the allegations raised against the petitioner are serious in nature and, thus, the petitioner does not deserve the concession of 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 23.03.2023 whereinafter investigation was carried out & challan was presented on 01.06.2023. Total 17 prosecution witnesses have been cited out of which the victim and the father of the victim/complainant, already stand examined as prosecution witnesses. The rival contentions of the learned counsel for the parties; as to whether the petitioner had a consensual friendship with the victim which was not to the liking of the family of the victim and hence the petitioner has been falsely implicated in the FIR as also the submission(s) made by the learned counsel for the petitioner that the contents of the FIR when juxtaposed with the statement made by the victim under Section 164 of Cr.P.C. on 16.03.2023, do not reflect falsity of the case 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. Petitioner is a young man aged about 24 years old. As per the custody certificate dated 07.08.2024 filed by the learned State counsel, the petitioner has suffered incarceration for a period of more than 1 year 4 months and 15 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.

7. In view of totality of the 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 learned 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.

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

August 08, 2024
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No