

**CRM-M-35397 of 2024** **1****IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****230****CRM-M-35397 of 2024
DATE OF DECISION :- 31.07.2024****Hasanpreet Singh @ Kaim****...Petitioner****Versus****State of Punjab****...Respondent****CORAM: HON'BLE MR. JUSTICE SUMEET GOEL****Present:-** Mr. Yaseen Sethi, Advocate
for Mr. Varinder Basa, Advocate for the petitioner.

Mr. Anup Singh, AAG, Punjab.

SUMEET GOEL, J. (Oral)

Ms. Ramandeep Kaur, Advocate has filed memo of appearance for the complainant. The same be taken on record.

The instant petition has been filed on 23.07.2024 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.86 dated 13.09.2023, registered for the offences punishable under Sections 363,366 of IPC at Police Station Qadian, District Batala, Gurdaspur, Punjab.



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

Statement of Simrati W/o Ashok Kumar, R/o Mohalla Sant Nagar Qadian, P.S. Qadian, aged about 34 years, Mob. No.9815963358, stated that I am resident of abovementioned address and is doing household work. I have three daughters. Elder one is Komalpreet aged about 15 years and younger to her is Jasanpreet aged about 12 years who are studying in 10th class and 6th class in Khalsa School Qadian and younger one is Bibanpreet aged about 6 years who is studying at G.S. Bajwa School, Qadian in LKG Class. My elder daughter Komalpreet is also doing job at R.V. Academy ILETS Centre, Railway Raod, Qadian alongwith with her studies, who was went from house at 09:00 am and came back in evening at 5:00 pm. On 08.09.2023 as usually, she went at 09:00 am at R.V. Academy ILETS Centre Railway Road, Qadian, but she did not return till evening, then I contacted telephonically to the owner of R.V. Academy IELTS Centre, Railway Raod, Qadian and inquired from him that my daughter Komalpreet had not returned home, then he disclosed that Komalpreet told him at 3:30 pm that her health is not good and she want to went back to her home after taking medicines, then I told to your daughter Komalpreet that after taking medicines you went back to your home, then Komalpreet went to our IELTS Centre. Thereafter, I called Komalpreet on her Mob. No.8360841017, then I found it switched off. Then we started searching our daughter. We searched our daughter Komalpreet at our own level at relatives home, but we unable to trace her. I have full belief that Hassanpreet Singh @ Kaim S/o Balwinder Singh, R/o Shaheed Balwinder Nagar, Faridkot, District Faridkot at present resident of Patti Guru Nankpur, Opposite Sukh Hospital, Qadian enticed away my daughter Komalpreet on the pretext of solemnizing marriage. Today I came to inform you. Legal action be taken against Hassanpreet Singh @ Kaim. Statement is recorded, heard which is correct. Sd/- Simrati abovesaid. Identified Sd/- Didar Singh ASI P.S. Qadian dated 13.09.2023.”



3. Learned counsel for the petitioner has argued that the petitioner is in custody since 04.03.2024. Learned counsel for the petitioner has further argued that there was consensual relationship 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 into the FIR in question. Learned counsel for the petitioner has further relied upon, in extenso, to the statement made by the victim under Section 164 Cr.P.C before the concerned Magistrate on 04.03.2024 to argue that nothing inculpatory has been brought forward against the petitioner in the said statement. Learned counsel for the petitioner has further relied upon an affidavit sworn in by the complainant (copy whereof has been appended as Annexure P-2) with the present petition to argue that FIR in question was the result of misunderstanding between the parties which has been resolved. 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 30.07.2024 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 04.03.2024 whereinafter investigation was carried out and challan stands presented on 01.05.2024 Total 14 prosecution witnesses have been cited and culmination of trial, but of course, will take its own time. The rival contentions of learned counsel for the parties; whether the petitioner has been falsely implicated into the FIR in question on account of his consensual friendship which was not to the liking of

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the victim; the weightage required to be attached to the testimony of the victim made under Section 164 Cr.P.C on 04.03.2024 as also the weightage/veracity required to be attached to the affidavit sworn in by the complainant (copy whereof has been appended as Annexure P-2); 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. As per custody certificate dated 30.07.2024 filed by learned State counsel, the petitioner has already suffered incarceration for about 04 months and 24 days. The petitioner is shown to be involved in another case bearing FIR No. 50 dated 27.06.2023 under Sections -452/323/324/326/506/148/149 of IPC, by itself, cannot be construed sufficient to decline the concession of bail in the instant 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.

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