



CRM-M-35698-2024

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

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CRM-M-35698-2024

Date of decision: 23.09.2024

Rajan Mishra

...Petitioner

V/s

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Balraj Gujjar, Advocate for the petitioner.

Ms. Priyanka Sadar, AAG Haryana.

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SUMEET GOEL, J. (Oral)

1. On 01.08.2024, the petitioner was granted the concession of interim regular bail. The said order reads as under:

*“The instant petition has been filed on 24.07.2024 under Section 439 of Cr.P.C., 1973 for grant of regular bail.*

*As per the judgment rendered by this Court titled as ‘Abhishek Jain Vs. State of U.T. Chandigarh and another (CRM-M-31808-2024:2024:PHHC:085784), 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.*

*Present petition has been filed for grant of regular bail to the petitioner in case bearing FIR No.05 dated 13.01.2024, registered for the offences punishable under Sections 376(2)(n), 323 and 506 of IPC at Women Police Station NIT, Faridabad.*

*Learned counsel for the petitioner has argued that the petitioner is in custody since 14.01.2024. Learned counsel has further argued that the perusal of the FIR in question would itself shows that there was consensual relationship between the petitioner and the complainant/victim which turned sour later on due to supervening circumstances on account of which, the FIR in question was registered. Learned counsel for the petitioner has further argued that the victim is a person aged about 25*



*years and is educated. Learned counsel has further argued that the in the history given by the victim at the time of her medical examination, the last date of alleged sexual assault is 16.08.2023 whereas the FIR in question was got registered on 13.01.2024. In this view of the matter, learned counsel has prayed for grant of regular bail.*

*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 31.07.2024 in Court, which is taken on record.*

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

*The petitioner was arrested on 14.01.2024 whereinafter investigation was carried out and challan stands presented on 11.03.2024. Total 14 prosecution witnesses have been cited and culmination of the trial will take its own time. The rival contention of learned counsel for the parties; as to whether there was consensual relationship between the petitioner and the complainant/victim which turned sour later on due to supervening circumstances; 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 31.07.2024 filed by the learned State counsel in Court today, the petitioner has already suffered incarceration for a period of more than 06 months and 18 days. As per the said custody certificate, the petitioner is shown to be involved in another FIR bearing No.536/2018 registered under Section 7 of POCSO Act at Police Station Mujjessar, District Faridabad. However, learned counsel for the petitioner has filed in Court today a copy of the anticipatory bail dated 24.05.2019 passed by Additional Sessions Judge, Faridabad whereby the petitioner was granted anticipatory bail in FIR No.536 dated 27.08.2018 registered under Section 7(1)-10-1975 of HURDA Act registered at Police Station Mujjessar, Faridabad.*

*The Jail Superintendent, District Prison (Faridabad), Haryana is directed to file a clarificatory affidavit in this regard by the next date of hearing.*



*Keeping in view the totality of the facts and circumstances of the case, the petitioner is ordered to be released on interim 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.*

*Adjourned to 05.09.2024. ”*

2. A clarificatory affidavit has been filed by Shri Harinder Singh, Superintendent of Prison, Faridabad; relevant whereof reads as under:

*“That, as per above order the correct section registered in FIR No. 536/2018 is section 7(1)-10-75 under the HUDA Act instead of section 7 of Prevention of Sexual Offence Act and earlier custody certificate submitted on dated 31-07-2024 was based on production warrant issued by learned court of Judicial Magistrate First Class Faridabad in which in FIR No. 536/2018 Under section was mentioned 7 of Prevention of Sexual Offence Act instead of section 7(1)-10-75 HUDA Act. On receipt of clarification from the Ld. Court. this office entered the correct section i.e. 7(1)-10-75 under the HUDA Act in record and in Phoenix Software. The correct custody certificate is annexed as **Annexure R-5.** ”*

3. A perusal of the above-said clarificatory affidavit indicates that



Section 7(1)-10-75 of HUDA Act. Nothing whatsoever has been brought forward to indicate that the petitioner has misused the concession of interim regular bail granted to him.

4. In view of the above, the interim regular bail order dated 01.08.2024 passed by this Court is made absolute, subject to the conditions as enumerated therein.

5. Needless to say that anything observed herein above shall not be construed to be an opinion on the merits of the case.

(SUMEET GOEL)  
JUDGE

September 23, 2024  
*Ajay*

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