



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

217/108 **CRM-M-36628 of 2024 (O&M)**
DATE OF DECISION :- 04.09.2024

Rahul **...Petitioner**

Versus

State of Haryana and another **...Respondents**

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Ms. Simmi Saini, Advocate
for Mr. Kamal Mor, Advocate for the petitioner.

Ms. Priyanka Sadar, AAG, Haryana.

None for respondent No. 2.

SUMEET GOEL, J. (Oral)

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 '*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.337 dated 22.04.2022, registered for the

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offences punishable under Section 6 of POCSO Act and 323,328,376(2)(n) of IPC at Police Station City, Karnal.

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 the application is to the effect that : To, Hon’ble SHO Sahib, Police Station City, Karnal. Subject: Complaint against Rahul alias Golu son of Surjit Singh, resident of Gali No. 01, Mahavir Colony, Karnal regarding commission of rape upon my minor girl, namely, Isha, aged 16-1/2 years by alluring him and also for preparation of plan to elope away. Sir, it is humbly submitted that I, Neelam wife of Kishan Singh, am resident of house no. 124/73, Khera colony, Jundla Gate, Karnal. My daughter, Isha, who is aged 16-1/2 years, was preparing a plan to elope away today and on revealing the same, we resisted her, upon which she closed the door and made call on dial- 112, upon which police came and took away all of us to Police Station City, Karnal and when we got conducted counselling of my daughter from CWC, then, it was revealed to us that Rahul has already developed relations with our daughter many times and also made her to drink alcohol. Daughter disclosed that on 12th February, 2022, Rahul took her in some hotel at Panipat and after making her to drink alcohol, made relations with her forcibly and she was also subjected to slaps and push. Rahul had stated to my daughter that he belongs to Punjabi family and they are having two shops in Panipat as also factory for manufacturing of almirahs in Karnal and 3-5 hours in Karnal. He also made relations on 10.3.2022, 21.3.2022 and 11.4.2022. My daughter told me that Rahul has kept her nude picture in his mobile phone. He used to take be repeatedly in a hotel located in fish market near subzi mandi. My daughter told that Rahul was asking her that we both will perform marriage and will go to abroad and that I have also given Rs. 12500/- to him so that some saving of us may take place. Rahul had also disclosed to



my daughter that he has also committed murders and that is why we will have to perform marriage by eloping away. All these facts are saved in a pen driver, which is in his possession. My daughter came to know about the reality of said boy today itself. It is requested to your goodself that stern legal action against Rahul may be initiated. It shall be so kind of you. Thanks. Applicant Sd/ Neelam. Neelam wife of Kishan Singh, resident of House No. 124/73, Khera Colony, Jundla Gate, Karnal. Mobile 8570825362, 8950116497. Place: Police Station. By this time, Myself, L/PS Poonam, am present in police station and on receipt of a written application moved by Neelam wife of Kishan Singh, resident of house no. 124/73, Khera colony, Jundla Gate, Karnal against Rahl alias Golu son of Surjit Singh, resident of Gali No. 01, Mahavir Colony, Kasrnal regarding developing of physical relations forcibly by aforesaid accused Rahul with Ishan, aged 16-1/2 years, daughter of aforesaid complainant by making her to consume alcohol and application for seeking directions from CWC, in police station, FIR No. 337 dated 22.4.2022 under sections 323, 328, 376(2)(n) IPC and 06 of POCSO Act, after registration in Police Station City, Karnal, copy of police file along with original application, for further investigation, by taking into self- assignment, am becoming busy in investigation and remaining copies of FIR and special reports, through e-mail ID of Sahab are being sent to higher officers.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 24.04.2022. Learned counsel has further submitted that there was consensual friendship between the petitioner and the victim which was not to the liking of the victim and hence the petitioner has been falsely implicated into the FIR in question. Learned counsel for the petitioner has further submitted that earlier two bail applications preferred by the petitioner before this Court were withdrawn on 08.04.2024 and 19.07.2024. Learned

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counsel for the petitioner has further submitted that pursuant to the above two withdrawals of the regular bail applications before this Court; RTI information (copy whereof has been appended as Annexure P-3 with the instant petition) has been obtained which clearly reflects that the victim has been going to the jail to meet the petitioner after the petitioner having been arrested in the instant FIR. 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 02.09.2024 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 24.04.2022 whereinafter investigation was carried out and challan stands presented on 06.06.2022. Total 18 prosecution witnesses have been cited and only one has been examined till date and 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 has been falsely implicated into the FIR in question on account of friendly relation with the victim which was not to the liking of the family of the victim as also the weightage required to be attached to the alleged visit of the victim to meet the petitioner in jail (which as per learned counsel for the petitioner is ratiocinated by the RTI information obtained and copy thereof has been appended as Annexure P-3 with the instant petition); 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.

7. The first regular bail petition preferred by the petitioner was dismissed as withdrawn at that stage on 08.01.2024 and thereafter on 19.07.2024, the second bail application preferred by the petitioner was withdrawn with liberty to file afresh with better particulars. The said order reads as under :-

“Learned counsel for the petitioner seeks permission to withdraw the present petition with liberty to file afresh with better particulars.

Ordered accordingly.”

8. Learned counsel for the petitioner has vehemently contended that RTI information was later on obtained on 01.05.2024 which reflects that the victim has been going to meet the petitioner in jail. This RTI information was not earlier available with the petitioner and thus the same could not be brought to the notice of this Court when the earlier two bail applications were decided.

9. In the considered opinion of this Court, the factum of petitioner now having obtained RTI information on 01.05.2024 which allegedly shows that the victim has been going to meet the petitioner in jail, would constitute a sufficient cause for this Court to entertain the instant third bail application.

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 02.09.2024 filed by learned State counsel, the petitioner has already suffered incarceration for a period of more than 02 years 04 months 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.

10. In view of above, the present petition is allowed. Petitioner is ordered to be released on interim 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/Illaqqa Magistrate.
- (vii) The petitioner shall not in any manner try to delay the trial.

11. 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.

12. Ordered accordingly.



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13. Nothing said hereinabove shall be construed as an expression of

opinion on the merits of the case.

14. Since the main case has been decided, pending miscellaneous

application, if any, shall also stands disposed off.

(SUMEET GOEL)
JUDGE

04.09.2024
P.Singh

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