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CRM-M-36630-2024 (O&M)

217

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-36630-2024 (O&M)

Date of Decision: 06.08.2024

GURDEEP SINGH

.. Petitioner

Vs.

STATE OF PUNJAB

..Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Harish Bhatti, Advocate for the petitioner.

Mr. Anup Singh, AAG, Punjab.

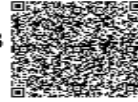
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SUMEET GOEL, J. (Oral)

1. Present petition has been filed under Section 483 BNSS for grant of regular bail to the petitioner in case bearing FIR No.67 dated 26.08.2023, registered for the offences punishable under Section 376 of IPC and Section 6 of POCSO Act (Sections 342 and 376(2)(n) IPC added later on) at Police Station City Morinda, District Rupnagar, Punjab.

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

“Stated that I am a resident of the above said address and I have studied from government school Samana to class VIII. My date of birth is 24-09-2009. I know a boy named Gurdeep Singh for the last 5 months and we often used to talk on the phone. On 23-08-2023 at 10:30 am he called me and invited me to meet at Morinda Lights where I came by Auto Rikshaw, where Gurdeep Singh came with his motorcycle and who asked me to go to his Sister's House which I refused but he forced me to sit on the motorcycle and took me to his sister Harpreet Kaur's house at Banga where there was no one in the house. Her sister Harpreet Kaur lives at Pathankot who rarely comes to her house at Banga. Then Gurdeep Singh forcefully took me to a room where he raped me several times. Today on 26-08-2023 my father Jaswinder Singh came there looking for

**CRM-M-36630-2024 (O&M)**

me and Gurdeep Singh ran away after seeing my father, me along with my father Jaswinder Singh came to the police station in City Morinda. Please take action against the said Gurdeep Singh. I have written my statement and read it, listened it and is correct." SD/- AKKY SD/-JASWINDER SINGH, SD/-SWATI DHIMAN SI."

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 27.08.2023. Learned counsel for the petitioner has further argued that the material private witnesses, namely, the victim as also father of the victim (when examined as PW5 and PW6 respectively) have turned hostile & hence in all likelihood the trial is not likely to culminate into conviction. Thus, the regular bail is prayed for.

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.

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

6. The petitioner was arrested on 27.08.2023 whereinafter investigation was carried out & challan was presented on 23.10.2023. Total 18 prosecution witnesses have been cited out of which 8 already stand examined. It is not in dispute that all the private prosecution witnesses in the instant FIR have been examined. The rival contention of the learned counsel for the parties; regarding the weightage required to be attached to the testimony of the hostile witnesses, namely, victim (PW-5) as also father of the victim (PW-6); 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

**CRM-M-36630-2024 (O&M)**

absconding from the process of justice or interfering with the remaining prosecution evidence. As per the custody certificate dated 05.08.2024 filed by the learned State counsel, the petitioner has suffered incarceration for more than 11 months. Further, as per custody certificate the petitioner is said to be involved in another case under Sections 376/506 of IPC but the same was registered in the year 2015 whereas the FIR in question has been registered in the year 2023 & hence this Court does not deem it appropriate to decline the concession of regular bail to the petitioner on this score alone. Suffice to say further detention of the petitioner as an undertrial is not warranted in the facts and circumstances of the present case.

7. In view of totality of 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 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.



CRM-M-36630-2024 (O&M)

(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/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.

06.08.2024
Jasmine Kaur

(SUMEET GOEL)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No