



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

219

**CRM-M No.37454 of 2024
Date of decision : 16.10.2024**

Om Parkash**Petitioner**

Versus

State of Haryana**Respondent**

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Ajay Gupta, Advocate, for the petitioner

Ms. Priyanka Sadar, AAG, Haryana

Mr. R.S. Mamli, Advocate, for the complainant

SUMEET GOEL, J. (ORAL)

1. Present petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') for grant of regular bail to the petitioner in case FIR No.47 dated 22.2.2024, under Sections 328, 376 (2)(N) and 506 of the IPC, registered at Police Station Sadar Narwana, District Jind.

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

'To, the SHO Police station Sadar Narvana: Regarding taking legal action for doing rape on the pretext of job. Sir, it is a request that my name is Mona D/o Dariya singh and I am a resident of Surya Nagar Rohtak. I am 10+2 pass. I run a small grocery shop at my home. I knew Om prakash Mob. 94163-87740 resident of Ramnagar, Narvana for a long time and I used to talk to him on phone. One day Omprakash told me that I will get



you a government job in Group-D. My acquaintance is with very big people and I have fallen in his trap. Yesterday on 21.02.2024 he called me asking me to come to Narwana today, on his request I came to Dumrakha village, where Omprakash was already there waiting in his car and who made me sit in the car and took me to Uklana side and on the way he parked the car on the side of Narwana Hisar Road and forcibly did wrong things with me in the car itself. Then, when I protested against this, he lured me for a job and threatened to kill me and said I will defame you. Then he took me to Anand Hotel, Narwana where he fed me food, I don't know what he mixed in the food, I got intoxicated and I don't know what they fed me and in the evening he took me to some unknown house in Narwana and there he raped me against my will. He did wrong things to me and left me in the house and ran away at 5 A.M in the morning. I request you to take legal action against Om prakash and get me justice. SD-MONA Applicant Mona daughter Dariya Singh, Yasi, Surya Nagar Rohtak, Mob. 0-83078-22915.'

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 26.2.2024. Learned counsel has further argued that the petitioner has been falsely implicated into the FIR in question. Learned counsel for the petitioner has further submitted that there were repeated telephonic conversation between the petitioner and the victim, even after the time and date of the alleged assault, which factum is borne out from Annexure P-3 (copy of CDR of telephonic conversation of the petitioner and the victim), which reflects that it was the victim who was in constant touch with the petitioner so as to pressurize/black-mail him. Thus, regular bail is prayed for.

4. Reply by way of affidavit of Amit Bhatia, HPS, Deputy Superintendent of Police, Narwana, District Jind, has been filed in Court today. The same be kept on record. Learned State counsel has raised submissions in tandem with the said reply.



Learned counsel for the complainant has vehemently opposed the grant of regular bail by arguing that the allegations levelled are serious in nature and thus, the petitioner ought not to be extended the concession of the regular bail. Learned counsel has further submitted that the statement made by the victim under Section 164 of Cr.P.C. clearly corroborates the case set-up in the FIR. Learned counsel for the complainant has further submitted that there is grave threat perception to the complainant from the petitioner; in case the petitioner is released on bail. Learned counsel has further argued that the petitioner, through his family members/friends, is trying to pressurize the victim to enter into a settlement.

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

6. The petitioner was arrested on 26.2.2024 whereinafter investigation was carried out and challan was presented on 23.4.2024. Total 15 prosecution witnesses have been cited and culmination of trial will, of course, 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 as also weightage/veracity required to be attached to the alleged record of telephonic conversation having taken place between the petitioner and the victim (copy whereof 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.



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.

7. Learned counsel for the complainant was asked a pointed query as to whether any FIR/DDR was registered against the petitioner and/or his family members/friends regarding the threat having been extended to the victim; which has been replied to in negative.

8. As per custody certificate dated 15.10.2024 filed by learned State counsel, the petitioner has already suffered incarceration for a period of seven months and eighteen days.

9. As per the said custody certificate, the petitioner is involved in two other cases bearing FIR No.117 dated 4.5.1999, under Section 160 of IPC, registered at Police Station City Narwana, Jind and FIR No.117 dated 8.11.2010, under Sections 148, 149, 307, 323 and 285 of IPC, registered at Police Station Alewa, Jind. Indubitably, the antecedents of a person are required to be accounted for while considering a regular bail petition preferred by him. However, this factum cannot be a ground sufficient by itself, to decline the concession of regular bail to the petitioner in the FIR in question when a case is made out for grant of regular bail *qua* the FIR in question by ratiocinating upon the facts/circumstances of the said FIR. Reliance in this regard can be placed upon the judgment of the Hon'ble Supreme Court in ***Maulana Mohd. Amir Rashadi v. State of U.P. and another, 2012 (1) RCR (Criminal) 586***; a Division Bench judgment of the Hon'ble Calcutta High Court in



case of *Sridhar Das v. State, 1998 (2) RCR (Criminal) 477* & judgments of this Court in *CRM-M No.38822-2022* titled as *Akhilesh Singh v. State of Haryana*, decided on 29.11.2021, and *Balraj v. State of Haryana, 1998 (3) RCR (Criminal) 191*.

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 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/Illaqa 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.
- 13. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.

(SUMEET GOEL)
JUDGE

16.10.2024
Ashwani

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