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

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DATE OF DECISION :- 04.09.2024

Satnam Singh **...Petitioner**

Versus

State of Punjab **...Respondent**

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. Sukhbir Maandi, Advocate for the petitioner.

Mr. Anup Singh, AAG, Punjab.

SUMEET GOEL, J. (Oral)

1. Present petition has been filed under Section 483 of BNSS, 2023 for grant of regular bail to the petitioner in case bearing FIR No.34 dated 20.03.2024, registered for the offences punishable under Sections 354,354-B of IPC and Sections 7,8,11,12 of POCSO Act at Police Station Sadar Tarn Taran, District Tarn Taran.
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 Lakhwinder Kaur wife Satnam Singh son of Mukhtiar Singh resident of village Bath police station Sadar Taran Taran age about 30 years mobile number 78373- 27449 stated that I am a resident of the said address and doing the household work and my first marriage was with Harpal Singh son of Sadha Singh resident of the village of Vasoya, Tehsil Ajnala, District Amritsar in the year 2006. Two daughters Dasmeet Kaur and Parneet Kaur were born out of the wedlock with Harpal Singh. My daughter Dasmeet Kaur aged about 17 years who studying in 10th standard and Parneet Kaur resided



with my sister-in-law at Village Sohian and my husband Harpal Singh died due to a sudden accident in 2010. After the death of my husband, I came to my parental village Nangli Bhatta Fatehgarh Churiyan, Amritsar along with my girls. And then in the year 2011, my family solemnized my marriage with Satnam Singh son of Mukhtiar Singh, a resident of village Bath police station Tarn Taran. On 16.03.2024, at about 2 PM when I was taking a bath in the bathroom then my daughter Dasmeet Kaur screamed loudly that Papa let me go. I heard my daughter's screams and quickly came out of the bathroom. My husband Satnam Singh was doing bad act with my daughter Dasmeet Kaur and also removed the clothes of my daughter forcibly. On seeing me, my husband left my daughter and went to the shop. Later, my daughter told me that my husband had been misbehaving with my daughter since 3 years ago and used to touch her body parts with wrong intention. On that day, my daughter told me everything. My daughter due to fear did not disclose to anyone. That on seeing myself, my daughter disclosed everything to me. Firstly, I was shy and kept silent and left the house with the children and went to my sister. Today, with courage I along with my mother Dalbir Kaur wife of Harwinder Singh resident of Nangli Batha, Fatehgarh Churiyan present before you and statement got recorded. Legal action should be taken against my husband. Statement heard and found to be correct. I am responsible. Sd/- Lakhwinder Kaur, Attested by Simarjeet Kaur ASI, Police Station Sadar Tarn Taran, Dated 20.03.2024.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 20.03.2024. Learned counsel has further submitted that the prime prosecution witnesses namely the complainant, victim as also Nani (maternal grand mother of the victim) have since been examined as PW1 to PW3 respectively on 04.07.2024 and 25.07.2024 & they have turned

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hostile. Thus the trial is not likely to culminate into conviction. In this view of the matter, learned counsel has prayed for grant of regular bail.

4. Short reply by way of affidavit of Sh. Gaurav Toora, IPS, Senior Superintendent of Police, District Tarn Taran filed in the Court today. The same be taken on record.

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 03.09.2024 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 20.03.2024 whereinafter investigation was carried out and challan stands presented on 17.05.2024. Total 11 prosecution witnesses have been cited out of which the private prosecution witnesses stand examined. The first bail application preferred by the petitioner was withdrawn on 22.05.2024. After the said date; the prime private prosecution witnesses namely PW1 (complainant) has been examined on 04.07.2024 & the Nani of the victim (PW2) has been examined on 25.07.2024 as also the victim has been examined as PW3 on 25.07.2024. It is thus borne out from the record that all the private prosecution witnesses stand examined after the date of withdraw of the first bail application on 22.05.2024. The rival contention of learned counsel for the parties; regarding the weightage required to be attached to the testimony of the hostile witnesses; 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,

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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 03.09.2024 filed by learned State counsel, the petitioner has already suffered incarceration for a period of more than 05 months & 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.

A perusal of the short reply dated 02.09.2024 filed by Sh. Gaurav Toora, IPS, Senior Superintendent of Police, District Tarn Taran reads as under :-

:5. That it is submitted that during investigation of the said case, statement of victim had been recorded under section 164 Cr.P.C by the Court of learned Additional Chief Judicial Magistrate, Tarn Taran and in her statement, the victim has categorically leveled the allegations against the petitioner.

6. That during the trial, the complainant, victim and one Dalbir Kaur wife of Harjinder Singh have been examined and from bare perusal of evidences Annexures P-2, P-3 & P-4 appended with the present petitioner, it has transpired that they had turned hostile and resiled from their earlier statements recorded before the Investigating officer as well as statement under section 164 Cr.P.C. recorded before the Court of learned ACJM, Tarn Taran.

7. That two separate applications under section 215/379 BNSS for taking action against the complainant and Victim have been filed in the learned trial court on 29.08.2024 for making false statements on oath in the Hon'ble Court and the next date for proceedings is 23.09.2024."

The proceedings sought to be got initiated by the police, by way of two separate applications filed by police, shall be gone into by the trial

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Court in accordance with law. The present order granting bail to the petitioner shall not be considered as reflection in any manner whatsoever on merits of the applications filed by the police. It is further directed that the trial Court, before concluding the trial shall decide the said two applications in accordance with law.

7. 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/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



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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

04.09.2024
P.Singh

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