



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

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**CRM-M No.41554 of 2024 (O & M)
Date of decision : 24.10.2024**

Sandeep @ Sunny @ Bachi**Petitioner**
Versus
State of Haryana and another**Respondents**

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Mohit, Advocate, for the petitioner
Ms. Priyanka Sadar, AAG, Haryana

Mr. Gaurav Gupta, 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.425 dated 13.12.2022, under Sections 354-A, 376, 452, 506, 511 and 34 of the IPC, registered at Police Station Bhuna, District Fatehabad.
2. The case set up in the FIR in question (as set out in the present petition by the petitioner) is as follows:-

'To Shri S.H.O., Police Station Bhuna (Fatehabad). Subject:- Regarding teasing of woman, regarding threat of doing rape and abduction from home and regarding threat of killing from life upon disclosing to anyone. Respected Sir, It is requested that I applicant 'R' wife of 'N' is permanent resident of ward no. 14 Chandan Nagar Bhuna. Respected Sir, Kaku son of unknown resident of Bhuna Chandan Nagar, Bachi son of Karnail caste



SC resident of Model Town and unknown persons entered into my house at 8:30 o'clock on 11.12.2022 and started teasing me. Tried to commit rape. I continuously resisted. Upon hearing my voice my neighbours came there. They gave threat to kill me and abduct me from home. Therefore respected sir due to fear of defamation I did not disclose these talks to anybody. But now I have extreme fear from them. These persons are of criminal type. Therefore you are requested that legal action be taken against them under the provisions of Indian Penal Code. You shall be thankful. Thanks You. - sd- R Applicant.'

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 29.5.2023. Learned counsel has further submitted that the petitioner has been falsely implicated into the FIR in question on account of long standing dispute between the petitioner and the victim/family of the victim. Learned counsel for the petitioner has further submitted that the testimony of the victim has been recorded as prosecution witness and he has referred in extenso, to the cross-examination of the victim to argue that the testimony of the victim does not inspire confidence. To buttress his arguments, learned counsel for the petitioner has specifically referred to the cross-examination of the victim, relevant part of which reads as follows:

'Police had asked me to get my statement recorded before the Magistrate but my statement could not be recorded on the same day. The same was recorded after some days. I had asked the police that I was unable to give statement before Magistrate as I was not feeling well. I do not remember if I had asked the police that I will give statement too Magistrate once Mukesh arrives. Police had asked me to get my statement recorded before the Magistrate thereafter after expiry of 10-15 days. My statement was recorded before the Magistrate on 06.01.2023. The police had asked me to get my statement recorded before Magistrate once more before 06.01.2023 but I refused as I was not feeling well. I did not give any medical



certificate of my illness to police. It is incorrect to suggest that a false story of illness has been told by me today for not recording my statement before Magistrate immediately. I was fully conscious at the time of recording my statement before Magistrate but I was feeling severe headache. I am perfectly alright today. I did not disclose my pain of headache to the Magistrate. I was not under any kind of pressure at the time of recording my statement before Magistrate. I had mentioned the names of both the accused to the Magistrate. (Confronted with statement Ex.P3 where name of none of the accused is mentioned). I had asked the Magistrate that I do not want any proceedings against the accused volunteer I was not feeling well at that time and I was under lot of tension. My statement Ex.P2 was recorded in the presence of legal-aid-Advocate. I was conscious and in my senses at that time.'

Thus, regular bail is prayed for.

4. Learned State counsel as also learned counsel for the complainant have opposed the present petition by arguing that the allegations raised are serious in nature and evidence in form of the testimony of the victim apart from the other evidence is available against the petitioner. Learned State counsel seeks to place on record custody certificate dated 23.10.2024 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 29.5.2023 whereinafter investigation was carried out and challan stands presented on 14.7.2023. Total 17 prosecution witnesses have been cited, out of which only 6 have been examined/given up till date. 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 long standing dispute as also the



weightage required to be attached to the testimony of the victim; 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 23.10.2024 filed by learned State counsel, the petitioner has already suffered incarceration for a period of one year, four months and twenty five days.

7. As per the said custody certificate, the petitioner is said to be involved in other FIR(s) also. 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 Suypreme Courty 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.

8. 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.

9. 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.

10. Ordered accordingly.

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11. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.

12. Pending miscellaneous application(s), if any, stand disposed of accordingly.

(SUMEET GOEL)
JUDGE

24.10.2024
Ashwani

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