

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

213

CRM-M-43349-2023

Date of decision: 12.01.2024

Murari Mishra@ Murari Kumar Mishra

....Petitioner

V/s

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr.R.S. Mamli, Advocate,
for the petitioner.

Ms. Priyanka Sadar, AAG, Haryana.

SUMEET GOEL, J.

1. Present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.82 dated 26.03.2022 (Annexure P-1), registered for the offences punishable under Sections 323, 365, 506 IPC and Section 6 of Protection of Children from Sexual Offences Act, 2012, at Police Station Manesar, District Gurugram.
2. The case set up in the FIR in question is as follows:-

“To, The SHO, Police Station Manesar, Gurugram. It is requested that I Lata Kandpal wife of KailashChander, age 38 years, resident of Bageshwar Police Station, Bageshwar (Uttarakhand) at present on rent near Pipal Chowk, Bus Stand, Manesar house of Narender and I stay with my family. I do the work of Amul Milk Dairy. I have two daughters. When I came to the house in evening then my younger daughter Himani age 16 years told me that I went to buy pen and book in the book seller shop around 1.30 pm on 25.03.2022, when I purchased the pen and came back near Bus

Stand Chowk then there was Murari son of Lallan Mishra, resident of Bihar. He came on motorcycle and he told me to sit on his motorcycle otherwise he will kill me. Murari forcefully made me to sit on his motorcycle and took me to Bhoralakan and where there is basement constructed and where Murari did bad act with me and when I started streaming then he choked me and said to be silent, if you make any noise then I will kill you by choking you and if you told this to anyone then I will kill your parents. He slapped me and even pushed me. Murari has committed wrong act with my daughter. I am giving this written complaint to you. It is requested that justice would be serve to me and my daughter. I am giving this statement in front of legal adviser Nirmala Madam. Statement recorded in my presence. Sd/- Nirmala. Dated: 26.03.2022. Lata Khandpal.”

3. Learned counsel for the petitioner has contended that the investigation in the present case is already complete; the trial is underway & 12 witnesses out of total cited 17 witnesses by the prosecution stand examined. Learned counsel for the petitioner has also submitted that PW-3 (prosecutrix) & PW-5 (mother of the victim) have been declared hostile & there is no other material witness left out to be examined. In this view of the matter, learned counsel for the petitioner prays for grant of regular bail.

4. Counsel for the State has opposed the present petition by arguing that the allegations raised are serious in nature and, thus, the petitioner does not deserve the concession of regular bail.

5. Custody certificate has been filed in Court, which is taken on record.

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

7. The accused is in custody since 26.03.2022; challan already stands presented on 15.06.2022 & material witnesses stand examined. The weightage required to be attached to the testimonies of the material witnesses, who have chosen to resile when examined as prosecution witnesses, will be looked into during the course of trial. As per the custody certificate dated 11.01.2024, the petitioner has been in custody for more than 1 year and 9 months. The petitioner is not shown to have been involved in any other FIR case. In my considered opinion, in the facts and circumstances of the present case, further detention of the petitioner is not required.

8. 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.
- (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.

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.

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

12. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(SUMEET GOEL)
JUDGE

January 12, 2024
poonam

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