

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-43864-2023

Date of decision: 08.01.2024

Rajesh

....Petitioner

V/s

State of Haryana and another

....Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Pankaj Nanhera, Advocate for
Mr. Rahul Gautam, Advocate for the petitioner.
Ms. Priyanka Sadar, AAG Haryana.

SUMEET GOEL, J. (Oral)

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.762 dated 27.08.2022 (Annexure P-1), registered for the offences punishable under Section 346 IPC and Sections 363, 366-A, 376(2)(n) (added later on) IPC and Section 6 of POCSO Act and Sections 9 and 11 of Child Marriage Restraint Act, 1929 at Police Station City Hisar, District Haryana.

2. The case set up in the FIR in question is as follows:-

“To , Chowki in-charge, bus stand, Hisar, sir, I, Mohit son of shri Ranveer Singh resident of H.no. 828 Sector 1-4 Hisar, I am married, my wife's name is Sakshi daughter of shri Pohkar resident of village Nangtihar district Mahendergarh. On dated 12.08.2022, my wife was coming to bus stand Hisar from house of her parents, to come to my house at Hisar, by bus from Narnaul. Who have not reached my house and have gone missing. My and my family have been searching for my wife Sakshi on our own till now. Now today, on dated 27.08.2022, we gave to you a complaint regarding my wife Sakshi gone missing. Kindly find my wife. Appearance,

color wheatish, long face, height 5 feet 6 inch, age around 20 years. Who was wearing grey coloured cloths. SD- applicant MOHIT son of shri Ranveer Singh resident of H.no. 828 Sector 1-4 Hisar Mob. No. 9034394548, 416170709. Proceedings by police- today, I, ASI present Chowki Bus Stand, Hisar. Mohit son of shri Ranveer ngh resident of H.no. 828 Sector 1-4 Hisar came present before me and presented a complaint, which from the draft of the complaint, an offence under section 346 IPC likely to have happened and hence for inspection of the present offence, it is being sent to the office of SPO Naranjan no. 26, Police Station, Hisar. After registration, case is to be informed through case number.”

3. Learned counsel for the petitioner has argued that there is delay in registration of the FIR inasmuch as the prosecutrix is stated to have gone missing on 12.08.2022 whereas the complaint was made by husband of the prosecutrix on 27.08.2022; the FIR states that the prosecutrix is aged about 20 years and the prosecutrix has not leveled allegation of sexual assault in her statement recorded under Section 164 Cr.P.C. on 18.03.2023.

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.

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

5. The petitioner is young-man aged about 28 years; the prosecutrix is stated to have gone missing on 12.08.2022 whereas the complaint was given on 27.08.2022 which culminated into registration of the FIR in question on 27.08.2022; the statement made by the prosecutrix under Section 164 of Cr.P.C. on 18.03.2023 does not reflect any allegation of

sexual assault; while refusing to get her medical examination done, the prosecutrix has stated before Dr. Neeru Gupta, Medical Officer Civil Hospital, Hisar that nothing wrong was done with her; challan has been presented on 03.08.2023 wherein 18 prosecution witnesses have been cited; the petitioner is in custody since 08.05.2023; there is no other FIR instituted against the petitioner as per the custody certificate dated 05.01.2024 and there is no tangible material on record to reflect likelihood of the petitioner absconding from the process of justice or interfering with the prosecution evidence. In my considered opinion, further incarceration of the petitioner is not warranted in the facts and circumstances of the present case.

6. 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 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.

7. 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.

8. Ordered accordingly.

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

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

(SUMEET GOEL)
JUDGE

January 08, 2024
Ajay

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