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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-41463-2024 (O&M)

Date of Decision: 02.09.2024

HIRA MASIH @ HEERA MASIH

.. Petitioner

Vs.

STATE OF PUNJAB AND ANOTHER

..Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. R.K. Arya, Advocate for the petitioner.

Mr. Anup Singh, AAG, Punjab.

Mr. Geeteshwar Saini, Advocate for respondent No.2.

...

SUMEET GOEL, J. (Oral)

1. The instant petition has been filed on 21.08.2024 under Section 439 of Cr.P.C., 1973 for grant of regular bail.

As per the judgment rendered by this Court titled '*Abhishek Jain Vs. State of U.T. Chandigarh and another*' (CRM-M-31808-2024) **2024PHHC085784**, the instant petition is not maintainable under Section 439 of Cr.P.C., 1973. However, keeping in view the entirety of facts and circumstances of the case especially that the instant petition pertains to regular bail, the instant petition is directed to be considered as a petition under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023.

Present petition has been filed for grant of regular bail to the petitioner in case bearing FIR No.0077 dated 03.07.2021, registered for the offences punishable under Sections 363 and 366 of IPC at Police Station Sadar Gurdaspur, District Gurdaspur.

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

“Statement of Stephen Mash son of Dalbir Mash resident of Piranbag police station Sadar Gurdaspur aged about 39 years Mb. No. 77176- 16471 stated that I am a resident of the above said address and working as a labourer. I have 2 Girls and 1 Son. My elder daughter Sanjana has passed class 10th, Whose age is only 15 years. On 19.06.2021 at around 03-00 AM, she left her home without telling us. I am very sure that our neighbourer Hira Mash son of Guljar Mash resident of Pirbagh has lured her away with the intention of marrying her. Legal action should be taken against him and my daughter should be recovered. I have been searching for my daughter till now with my relatives and friends, who did not meet to us. Sd/- Stephen Masih Verified Sd/- Asi Baljit Kaur Police Station Sadar Gurdaspur Date 03.07.2021.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 10.07.2024. Learned counsel for the petitioner has submitted that the FIR in question was got registered by the father of the victim on account of a misunderstanding which has since been resolved. Learned counsel for the petitioner has further submitted that a compromise quashing petition (CRM-M-35598 of 2024) has also been filed before this Court which is pending adjudication before this Court for 17.09.2024. Thus, regular bail is prayed for.

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.

5. Learned counsel for the complainant/respondent No.2 has ratified the factual averment made by the learned counsel for the petitioner in support of the cause for grant of regular bail to the petitioner.

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



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7. The petitioner is in custody since 10.07.2024. Learned State counsel (on instructions from ASI Hardeep Singh) has brought to the notice of this Court that the investigation in the matter is complete and challan is likely to be presented within 15 days from today. The rival contention of the learned counsel for the parties; as to whether there was misunderstanding between the petitioner and the father of the victim which led to registration of the FIR in question as also the veracity of the said misunderstanding having been resolved between the parties; 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 the custody certificate dated 31.08.2024 filed by the learned State counsel, the petitioner has suffered incarceration for more than 01 month and 20 days & 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 present case.

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.

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- (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.

02.09.2024
Jasmine Kaur

(SUMEET GOEL)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No