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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-42337-2024 (O&M)

Date of Decision: 04.09.2024

RAVI

.. Petitioner

Vs.

STATE OF HARYANA

..Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Sahil Gupta, Advocate for the petitioner.

Ms. Priyanka Sadar, AAG, Haryana.

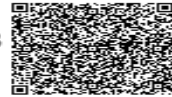
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SUMEET GOEL, J. (Oral)

1. Present petition has been filed under Section 483 BNSS for grant of regular bail to the petitioner in case bearing FIR No.318 dated 10.09.2023, registered for the offences punishable under Sections 363, 366-A, 344, 354-D, 376(2)(n), 427, 506, 201 of IPC, 1860 and Sections 6 and 12 of POCSO Act, 2012 (Sections 344, 354-D, 376(2)(n), 427, 506, 201 of IPC and Sections 6 and 12 of POCSO Act added later on) at Police Station Bawani Khera, District Bhiwani, Haryana.

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

“To the SHO, PS Bawani Khera, Sir, it is submitted that I, Mukesh son of Shivdhan, am resident of village Baliyali. I am working in Haryana Roadways. On 09.09.2023, I had gone to my duty and my family members were working in the fields. That at around 11:00 am, my daughter Komal aged 17 years was alone at the house. That in the evening, when we saw, we found that my daughter Komal is not at home. Then I enquired in the house and in the neighbourhood and then we came to know that my minor daughter Komal has been enticed away by Ravi son of Gopi Ram resident of village Baliyali. That I kept

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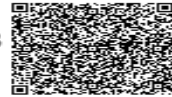
searching for my daughter till now, but she is nowhere to be found. Therefore, legal action may be taken against the above Ravi and a search may be conducted for my daughter. I shall be highly grateful to you. Sd/ Mukesh Kumar Mukesh Kumar son of Shivdhan, resident of village Baliyali Date 10.09.2023 Mob. no. 99915- 57683, 90504-40539. XXXX.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 30.09.2023. Learned counsel for the petitioner has submitted that there was consensual friendship between the petitioner and the victim which was not to the liking of the family of the victim & hence the petitioner has been falsely implicated into the FIR in question. Learned counsel for the petitioner has further submitted that a protection petition (CRWP-9102-2023) was also filed before this Court by the petitioner along with the victim. Learned counsel for the petitioner has further submitted that all the private prosecution witnesses already stand examined and thus there is no chance of the petitioner tempering with the prosecution evidence, if released on bail. Thus, the 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. I have heard counsel for the parties and have gone through the available records of the case.

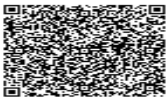
6. The petitioner was arrested on 30.09.2023 whereinafter investigation was carried out & challan was presented on 21.12.2023. Out of the total cited 36 prosecution witnesses, 25 already stand recorded and 5 have been given up. The rival contention of the learned counsel for the parties; as to whether the petitioner has been falsely implicated into the FIR in question on account of his having consensual friendship with the victim

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which was not to the liking of the family of the victim & the weightage required to be attached to the factum of the petitioner and the victim having jointly filed a protection petition (CRWP-9102-2023) before this Court; 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. Since substantial prosecution evidence has already been led, there appears to be no chance of the petitioner interfering with the remaining prosecution witness. It goes on without saying that the petitioner would be required to lead defense evidence also. Nothing tangible has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice. As per the custody certificate dated 02.09.2024 filed by the learned State counsel, the petitioner has suffered incarceration for more than 10 months and 29 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.

7. 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.



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- (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/Illaqa 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 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.

04.09.2024
Jasmine Kaur

(SUMEET GOEL)
JUDGE

Whether speaking/reasoned Yes No

Whether reportable Yes No