

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
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CRM-M No.42580 of 2024
Date of decision : 5.9.2024

Ankit	Petitioner
Versus	
State of Punjab	Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Karajveer Singh, Advocate, for the petitioner
Mr. Anup Singh, AAG, Punjab

SUMEET GOEL, J. (ORAL)

The instant petition has been filed on 28.8.2024 under Section 439 Cr.P.C. for grant of regular bail.

As per the judgment rendered by this Court titled as '*Abhishek Jain v. State of U.T. Chandigarh and another*' (CRM-M No.31808 of 2024, 2024:PHHC:085784), the instant petition is not maintainable under Section 439 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 BNSS, 2023.

1. Present petition has been filed by the petitioner for grant of regular bail in case FIR No.01 dated 02.01.2024, under Sections 363 and 366-A of IPC, registered at Police Station Koom Kalan, District



Ludhiana.

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

'Statement of Mauju Devi wife Parminder resident of village Samoli police station Ratanpuri district Muzaffarnagar UP now resident of AK Bhatta village Deromunna police station Koom Kalan Ludhiana. Age- 33 years. Mobile number 863083-99941 stated that I am a resident of above said present address, I have my 4 children, I live with my family. My elder girl Amrita is about 14 years old, who has studied up to the 3rd standard. On 26-12-2023 at around 8.00 AM, my daughter Amrita went without asking me where she went, which I expected. Searched in nearby neighbourhood and relatives, but did not find anywhere, now I have come to know only after searching, that my daughter Amrita has absconded with a boy named Ankit son Palla Ram resident of village Sela police station Butana district Muzaffarnagar U.P who stays nearby who had taken my daughter with the intention of getting married, Ankit son of Palla Ram resident of village Jela Thana Thudana District Muzaffarnagar UP, legal action should be taken against my daughter Amrita, age 14 years, height 4 feet 8 inches, color light brown. The statement is written and is correct and signed in Hindi.'

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 3.1.2024. Learned counsel has further argued that the statement made by the victim under Section 164 of Cr.P.C. indicates that no inculpatory statement was made against the petitioner and, in fact, the victim had stated that she had left the lawful guardianship of her parents on her own accord and further that the petitioner is innocent and no action be taken against him. Learned counsel has further submitted that the petitioner is a young man aged 24 years with no criminal antecedents. Learned counsel for the petitioner has further relied upon the dicta of the Hon'ble Supreme Court in '*S. Varadarajan v. State of Madras, 1965*



AIR (SC) 942', to argue that the offence under Section 366-A of the IPC is not made out against the petitioner. Hence, regular bail of the petitioner is prayed for.

4. Learned State counsel 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 the regular bail. Learned State counsel seeks to place on record custody certificate dated 4.9.2024 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 3.1.2024 wherein after investigation was carried out and challan was presented on 16.2.2024. Total 14 prosecution witnesses have been cited, and the culmination of the trial, but of course will take its own time. The rival contention of learned counsel for the parties; as to the weightage required to be attached to the testimony of the victim made under Section 164 of Cr.P.C.; as also as to whether the offence under Sections 363/366-A of the IPC is not made out against the petitioner; 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.

7. Nothing tangible has been brought forward to indicate the likelihood of the petitioner interfering with the prosecution evidence. As per custody certificate dated 4.9.2024 filed by learned State counsel, the petitioner is stated to be in custody for about 8 months. As per the said custody certificate, the petitioner is not involved in any other case.



Suffice to say, further detention of the appellant 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.

11. Nothing said hereinabove shall be construed as an expression of

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opinion on the merits of the case.

(SUMEET GOEL)
JUDGE

5.9.2024
Ashwani

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