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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-45127-2024 (O&M)
Date of Decision: 07.11.2024

ARUN

.. Petitioner

Vs.

STATE OF HARYANA

..Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Ms. Santosh Miglani, 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 of BNSS, 2023 for grant of regular bail to the petitioner in case bearing FIR No.550 dated 21.10.2022, registered for the offences punishable under Sections 376(3) and 506 of IPC and Section 4 of POCSO Act, at Police Station Kaithal City, District Kaithal.
2. The case set up in the FIR in question (as set out by the petitioner in the present petition) is as follows:-

“The brief of the complaint is as follows To, SHO Sahib Police Station City Kaithal Sir, I am Vx-x-x Sx-x-x S/O Jx-x-x-x Sx-x-x R/O Khanauri Road Gali New 6, Near Rama Foundry Factory, and permanent resident. I have four daughters in which Urvasi is the eldest daughter who studies in 11th class in Hindu Girls School, Ambala Road, whose date of birth is 07.11.2006. Like every day, she went to her school today at 7.30 in the morning in an auto. I had received information from the school that your daughter Urvasi did not come to school today, on which I and my wife went to the school to inquire and there we were searching for our daughter. I was standing at the school gate and then I saw my daughter entering the school. When I saw it I came to my home with my daughter. After coming home, my wife and I asked our daughter, then my

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daughter told that I had gone to school on 30.09.2022 but without going to class, I was on a motorcycle with Arun Dhiman S/O Baljeet Dhiman resident of Arjun Nagar Kaithal. You are requested to take appropriate legal action against Arun Dhiman S/O Baljeet Dhiman. He took me on a motorcycle to a hotel near Jagdishpura and forced me to the hotel room and did wrong things. Due to shame and fear, I did not tell my family at that time. Today, on 21.10.2022, I went to school by auto and after not going to class, Arun Dhiman intimidated me and took me to the park of Sec-20 and forcefully made me sit there and when I started crying, he made me sit in an auto from Armbala Bye Pass and threatened that if I told about this Then I will kill you and your family. Hence, it is humbly request to you that a strict legal action can be taken against Arun son of Baljeet Dhiman Sd/ Vxxx Sxxx, Applicant 94162xxxx”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 22.10.2022. Learned counsel for the petitioner has further argued that there was friendly casual relationship between the petitioner and the victim which was not to the liking of the family of the victim and thus the petitioner has been falsely implicated into the FIR in question. Learned counsel for the petitioner has further iterated that the victim had made inculpatory statement against the petitioner under Section 164 of Cr.P.C. as also when examined as a prosecution witness on account of familial pressure. Learned counsel for the petitioner has also argued that all private prosecution witnesses stand examined and thus there is no chance that the petitioner could tamper with the prosecution evidence. Learned counsel for the petitioner has further iterated that the petitioner is a young man aged 21 years with no criminal antecedents. 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.



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

6. The petitioner was arrested on 22.10.2022 whereinafter investigation was carried out & challan was presented on 29.11.2022. Total 23 prosecution witnesses have been cited out of which 19 prosecution witnesses already stand examined. It is not in dispute that all private prosecution witnesses including the victim stand examined. The rival contention of the learned counsel for the parties; whether there was friendly casual relationship between the petitioner and the victim which was not to the liking of the family of the victim & it is on this account the petitioner has been falsely implicated into the FIR in question; 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 remaining prosecution evidence. The petitioner has no criminal antecedents.

Indubitably, the petition in hand is the third regular bail preferred by the petitioner. The first bail petition preferred by the petitioner was dismissed as withdrawn on 31.10.2023. Thereafter, the second bail petition preferred by the petitioner was dismissed as withdrawn on 10.04.2024 wherein the following order was passed:

1. *Faced with the situation that two private witnesses are yet to be examined, learned counsel for the petitioner seeks to withdraw the present petition at this stage.*
2. *Dismissed as withdrawn at this stage.*
3. *Pending application(s), if any, shall also stand disposed off.*

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The factual matrix of the matter in hand reflects that the last bail petition was dismissed as withdrawn on 10.04.2024 as two private witnesses were yet to be examined. However, after passing of the said order on 10.04.2024, all private prosecution witnesses stand examined. The factum of all private prosecution witnesses having been examined since 10.04.2024 & the extended period of the custody undergone by the petitioner since April, 2024 till today are sufficient grounds to consider favourably the present petition (third bail petition) by the petitioner. As per the custody certificate dated 06.11.2024 filed by the learned State counsel, the petitioner has suffered incarceration for more than 02 years and 14 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/Illaq 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.

07.11.2024
Jasmine Kaur

(SUMEET GOEL)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No