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**IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH**

**215** **CRA-S-3093 of 2024 (O&M)**  
**DATE OF DECISION :- 28.11.2024**

**Jaipal @ Jaypal Singh @ Kala** **...Appellant**

**Versus**

**State of Haryana and another** **...Respondent**

**CORAM: HON'BLE MR. JUSTICE SUMEET GOEL**

**Present:-** Mr. Sanchit Punia, Advocate for the appellant.  
Ms. Mahima Yashpal, DAG, Haryana.  
Ms. Nanvi Gupta, Advocate for respondent No. 2.

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**SUMEET GOEL, J. (Oral)**

1. Present appeal has been filed under Section 14-A of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 against the order dated 22.08.2024 passed by the learned Additional Sessions Judge, Hisar for grant of regular bail in FIR No.527 dated 21.05.2022, registered for the offences punishable under Sections 354, 376(2) N, 376(2)F, 376 (3), 120-B of IPC and Sections 6, 8 of POCSO Act and Section 3 of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 at Police Station Barwala, District Hisar.
2. The case set up in the FIR in question (as set out in the present appeal by the appellant) is as follows:-

*“Statement of Meenu alias Komal daughter of Ramchandra resident of Village Sismar District Kaithal now at Village Pabda*



*(Hisar) Caste category SC aged about 16 years, Education 9th, Mobile 98137-68196. Stated am resident of the that I above noted address and I study in 9th class in Govt. Senior Secondary village Pabda. We are sisters three brothers. two One sisters; and brother and My brother Rahul is the eldest. After that there is me and then there is my younger sister Mansi. Due to my mother Mukesh's differences with my father Ramchandra resident of Sismore, my mother is now living with my orally said father Jaipal resident of Pabda. My brother Rahul and my father live in village Sismar and I my younger sister and my mother live with my orally said father Jaipal in village Pabda. My father Jaipal has keeping an evil eye been on me for the last three years. Who used bad to tease me with intentions and does wrong things to me. And my mother Mukesh also supports my father and says that you should anything not about this to me tell to anyone. Earlier also, I had got an registered FIR against my father in police station Barwala for molesting me and threatening to kill canceled which me; by was got my mother's undue pressure. My father Jaipal belongs to Jaat caste and taking undue advantage of my caste, he does wrong things to me and says to me that if I do not do wrong things with him, then will throw out of he the house. You are the child of someone else. I will not keep you in my house. And my mother also said that will have to you develop relations with your father: if you do not do this then we will father not keep you. Jaipal My takes advantage of my misery and does wrong things again and again to me. He had developed physical relations with me for the last time in the month of December-2021. Now, on dated 18-05-2022, my father Jaipal said me that today your mother is not at home and today also develop physical relation with him. My mother had gone to Rampura (Punjab) to visit her relatives. Then I called 112 and the police took away my father. Then on dated 19- 05-2022 I came to Barwala to my Uncle Karambir and Aunt Anita. And today I came to the police*

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*station with my grandmother Dharmo and got my statement recorded to you. There is no pressure from anyone upon me. Got my statement recorded, read it, is correct. SD/- Meenu (Komal) RTI Dharmo Attested PSI Seema I/C WHD Barwala Dated 20-05-2022, Savita Nagar LAC District Hisar 20- 05-2022.”*

3. Counsel for the appellant has argued that the appellant is in custody since 22.05.2022. Learned counsel for the appellant has further argued that the appellant (herein) is in a relationship with the biological mother of the victim which is not to the liking of the victim as also her family and, therefore, the appellant has been falsely implicated into the FIR in question. In order to buttress his arguments, learned counsel for the appellant has submitted that previously, one FIR No.527 dated 28.07.2021, registered for the offences punishable under Sections 354, 323, 506 of IPC and Section 8 of POCSO Act at Police Station Barwala, District Hisar was got registered against the appellant at the instance of the victim which was cancelled later on as the victim had submitted in her statement made under Section 164 of Cr.P.C in that case that she had got the FIR wrongly registered. Learned counsel for the appellant has further submitted that the victim, after her testimony was recorded as a prosecution witness, had filed an application under Section 311 of Cr.P.C for her to be recalled as a prosecution witness, which was withdrawn later on. Learned counsel for the appellant has further submitted that the testimony of all the private witnesses stand recorded & thus there is no chance that he would be in a position to influence the trial/prosecution evidence, in case he is released on bail. On the strength of these submissions, learned counsel for the appellant has prayed for grant of regular bail to the appellant.

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4. Counsel for the State opposed the present petition arguing that the allegations raised are serious in nature and thus the appellant does not deserve the concession of regular bail.

5. Learned counsel for the complainant has vehemently opposed the grant of regular bail to the appellant by arguing that allegations made in the FIR are serious in nature. It has been further iterated by learned counsel for the complainant that the victim has got recorded her statement as a prosecution witness and she is completely substantiating the case put forth by the prosecution. Thus it has been prayed that the bail petition in hand be dismissed.

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

7. The appellant was arrested on 22.05.2022. After completion of investigation, the challan was presented on 16.07.2022. Total 12 prosecution witnesses have been cited and all the private prosecution witnesses stand recorded. It is not in dispute that the testimony of the victim also stands recorded as a prosecution witness. The rival contentions of learned counsel for the parties as to the weightage required to be attached to the earlier FIR (FIR No.527 dated 28.07.2021, registered for the offences punishable under Sections 354, 323, 506 of IPC and Section 8 of POCSO Act at Police Station Barwala, District Hisar), the weightage required to be attached to the factum of the victim having filed an application under Section 311 of Cr.P.C for her to be recalled as a prosecution witness and the same been subsequently withdrawn & as to whether the appellant has been falsely implicated into the FIR in question on account of his having a relationship with the biological

mother of the victim; shall be seen during the course of trial. This Court does

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not deem it appropriate to delve into these rival contentions at this stage lest it may prejudice trial. No tangible material has been brought on record to show that there is likelihood of the appellant absconding from the process of justice or interfering with the prosecution evidence.

As per the custody certificate dated 27.11.2024 filed by the State counsel, the appellant has suffered incarceration for more than 02 years and 06 months. As per the said custody certificate the appellant is involved in another FIR No.200/2008 dated 23.07.2008, registered for the offences punishable under Sections 326, 34, 324, 323 of IPC at Police Station Agroha, Hisar in which the appellant has been convicted but has been released on bail (suspension of sentence) by the High Court. Indubitably, the antecedents of a person are required to be accounted for while considering a regular bail petition preferred by him. However, this factum cannot be a ground sufficient by itself, to decline the concession of regular bail to the petitioner in the FIR in question when a case is made out for grant of regular bail *qua* the FIR in question by ratiocinating upon the facts/circumstances of the said FIR. Reliance in this regard can be placed upon the judgment of the Hon'ble Supreme Court in ***Maulana Mohd. Amir Rashadi vs. State of U.P. and another, 2012(1) R.C.R. (Criminal) 586***; a Division Bench judgment of the Hon'ble Calcutta High Court in case of ***Sridhar Das vs. State, 1998(2) R.C.R. (Criminal) 477*** & judgments of this Court in ***CRM-M-38822-2021*** titled as ***Akhilesh Singh vs. State of Haryana***, decided on 29.11.2021 and ***Balraj vs. State of Haryana, 1998(3) R.C.R. (Criminal) 191***.

Suffice to say, further detention of the appellant as an under trial is not warranted in the facts and circumstances of the case.

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8. In view of the factual matrix of the present case, the instant appeal is allowed. Appellant 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 appellant shall remain bound by the following conditions:-

- (i) The appellant shall not mis-use the liberty granted.
- (ii) The appellant shall not tamper with any evidence, oral or documentary, during the trial.
- (iii) The appellant shall not absent himself on any date before the trial.
- (iv) The appellant shall not commit any offence while on bail.
- (v) The appellant shall deposit his passport, if any, with the trial Court.
- (vi) The appellant 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/Illaq Magistrate.
- (vii) The appellant 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 appellant.

10. Ordered accordingly.



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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.

**(SUMEET GOEL)**  
**JUDGE**

**28.11.2024**  
*P.Singh*

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|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether Reportable        | Yes/No |