



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

216

CRM-M-45736 of 2024

DATE OF DECISION :- 19.09.2024

Manoj Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL**Present:-** Mr. Lakshay Bector, Advocate for the petitioner.

Ms. Priyanka Sadar, AAG, Haryana.

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.636 dated 06.11.2022, registered for the offences punishable under Sections 363,366 of IPC and Section 6 of POCSO Act at Police Station Sector-10, Gurugram.
2. The case set up in the FIR in question (as set out in the present petition by the petitioner) is as follows:-

“Respected Sir, the details of the case are as follows: On 06.11.2022, SI Omprakash was present at Sector 10-A, Gurugram, when the complainant Gudia wife of Sharafat Ali resident of Jarauli Sherpur, Police Station Bilgram, District Hardoi, Uttar Pradesh, currently residing as a tenant at Babul Kumar's house, No. 101, Gali No. 2, G-Block. Saraswati Enclave, Sector 37-A. Gurugram, came to the police station and submitted a written complaint, the contents of which are as follows: Respected Sir, SHO Sahib, Police Station Sector 10-A, Gurugram: it is requested that I Gudia wife of Sharafat All. am



resident of Jarauli Sherpur, Police Station Bilgram, District Hardoi, Uttar Pradesh, and currently a tenant at Babul Kumar's house, No. 101, Gali No. 2. G-Block, Saraswati Enclave, Sector 37-A, Gurugram. I live in the rented house, with my three children, including one son and two daughters, and I work at a sewing center. On 31.10.2022, I left for work at my company around 9 AM, leaving my children at the rented house. When I returned from work to the rented room around 5:30 PM, I found that my daughter, Mantasha, was not in the room. I inquired with my neighbors and children but could not locate my daughter, who had left without informing anyone. The description of my daughter is as follows: complexion is whitish, face is round, physique is well-built, height is 4'5", and she is 12 years old. At the time she left home, she was wearing a red kurta, black burqa, black ghagra, and black chunari, with a bangle on her right hand and a ring on her left hand. She had white earrings in her ears and was wearing Hawayi sandals on her feet. I have been searching for my daughter on my own but have been unable to find her. Someone unknown lured her away. Today, I have come to the police station. I request that legal action be taken against the unknown person who lured my daughter away and that efforts be made to locate her. Applicant: Gudia wife of Sharafat Ali, Phone: 8127785939."

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 26.11.2022. Learned counsel has further argued that there was consensual friendship between the petitioner and the victim which was not to the liking of the family of the victim and hence the petitioner has been falsely implicated into the FIR in question. To buttress his arguments, learned counsel for the petitioner has relied upon an affidavit regarding marriage live-in relationship (copy whereof has been appended as Annexure P-3) with the instant petition as also photographs of the petitioner and the



victim (copy whereof has been appended as Annexure P-2) with the instant petition. Learned counsel for the petitioner has further submitted that all the private prosecution witnesses have since been examined. In this view of the matter, learned counsel has prayed for grant of regular bail.

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. Learned State counsel seeks to place on record custody certificate dated 17.09.2024 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 26.11.2022 whereinafter investigation was carried out and challan stands presented on 24.01.2023. It is not in dispute that total 23 prosecution witnesses have been cited and all the private prosecution witnesses already stand examined. The rival contention of learned counsel for the parties; regarding the veracity/weightage required to be attached to the live-in relationship deed (Annexure P-3) and the photographs (Annexure P-2) relied upon by the accused side & as to whether there was consensual friendship 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; 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.



7. The petition in hand is the second regular bail petition preferred on behalf of the petitioner before this Court. The first petition preferred on behalf of the petitioner was withdrawn vide order dated 04.09.2024, which reads as under :-

“Manoj KumarPetitioner

Versus

State of HaryanaRespondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Lakshay Bector, Advocate, for the petitioner

Ms. Priyanka Sadar, AAG, Haryana.

SUMEET GOEL, J. (ORAL)

Learned counsel appearing for the petitioner seeks to withdraw the instant petition with liberty to file afresh with complete and better particulars.

Ordered accordingly.

(SUMEET GOEL)
JUDGE

4.9.2024”

8. Learned counsel for the petitioner has submitted that at the time of filing of the first petition, the testimonies of the victim and the mother of the victim were not appended with that petition. Learned counsel for the petitioner has submitted that now the testimonies of the victim as also mother of the victim has been placed on record.

9. In this view of the matter, this factor is sufficient to consider the instant petition (second regular bail petition) of the petitioner.

10. As per custody certificate dated 17.09.2024 filed by learned State counsel, the petitioner has already suffered incarceration for a period of 01 year and 09 months and 21 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 case.

11. 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/Illaqha Magistrate.
- (vii) The petitioner shall not in any manner try to delay the trial.

12. 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.

13. Ordered accordingly.



14. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.

15. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(SUMEET GOEL)
JUDGE

19.09.2024
P.Singh

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No