



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

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**CRM-M No.46522 of 2024
Date of decision : 23.9.2024**

Sahil**Petitioner**
Versus
State of Punjab**Respondent**

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. B.S. Jatana, Advocate, for the petitioner

Mr. Yuvraj Singh Tiwana, AAG Punjab

SUMEET GOEL, J. (ORAL)

1. Present petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') for grant of regular bail to the petitioner in case FIR No.12 dated 27.01.2024, under Sections 363 and 366 of IPC (Sections 376 and 201 of IPC and Sections 4 and 6 of the POCSO Act, 2012 added later on), registered at Police Station Bareta, District Mansa.
2. The case set up in the FIR in question (as set out in the present petition by the petitioner) is as follows:-

'Copy of statement, statement of Jagtar Singh son of Jogi Singh son of Matia Ram, resident of Mander, Tehsil Bareta, District Mansa, aged about 48 years, Mobile no.98728-38157. Stated that I am resident of abovesaid address and doing labour work and I have two children. Out of them son Jaswinder Singh and daughter Asha Rani is aged about 17 years, whose date of birth is 02.10.2007, she is minor and studying in 8th standard and



as of now she was doing domestic work at house. On 20.01.2024, I alongwith my son Jaswinder Singh went to Bareta City for some domestic work. My wife Charanjit Kaur and my daughter Asha Rani both were present at house. On that day at about 11 O'clock in the morning my wife went to the washroom for taking the bath and my daughter was doing stitching of suits with sewing machine in the room at our house and when my wife came out of the washroom after taking bath then my daughter was missing from our house. My wife has told all the above mentioned fact to us when we returned back from Bareta. Till today we were searching my daughter Asha Rani on our level in the nearby places and in our relation but we could not find my daughter Asha Rani anywhere. SIM No.99152-78958 was running in her mobile, her mobile is switched off from date 20.01.2024. Now I am sure that Sahil son of Sunil resident of Kariwala, District Sirsa (Haryana) enticed my daughter Asha Rani and taken her somewhere in the name of marriage. Legal action be taken against him and my daughter Asha Rani be handed over to us after finding her and after releasing her from the custody of Sahil. Statement recorded to you, heard which is correct. Sd/- Jagtar Singh above, attested Sd/- Bhupinder Singh SI Incharge Police Post Kulria, Police Station Bareta, dated: 27.01.2024. '

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 28.1.2024. Learned counsel has further submitted that the prime prosecution witnesses, namely the victim, father of the victim-complainant as also mother of the victim, have been turned hostile and the trial will culminate not in conviction. Hence, regular bail 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 20.9.2024 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 28.01.2024 wherein after investigation was carried out and challan qua the petitioner was presented on 21.3.2024. Total 16 prosecution witnesses have been cited out of which three prime prosecution witnesses stand examined. It is not in dispute that the said three prime prosecution witnesses have been turned hostile. The rival contention of learned counsel for the parties; as to whether the petitioner has been falsely implicated in the FIR in question & the weightage required to be attached to the testimonies of the hostile witnesses PW-1 (victim), PW-2 (father of the victim-complainant) and PW-3 (mother of the victim); 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 material has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the prosecution evidence. As per custody certificate dated 20.9.2024 filed by learned State counsel, the petitioner has already suffered incarceration for a period of seven months and twenty one 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 present case.

7. 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.

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.

(SUMEET GOEL)
JUDGE

23.9.2024
Ashwani