



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

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**CRM-M No.46309 of 2024
Date of decision : 23.9.2024**

Sardool**Petitioner**
Versus
State of Punjab and another**Respondents**

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Vipin Mahajan, 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.35 dated 9.7.2024, under Sections 74, 64, 62 of Bharatiya Nyaya Sanhita and Section 6 of the POCSO Act, 2012, registered at Police Station Dorangla, District Gurdaspur.
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 Violet w/o Sonu Masih Rio Daburhi, P.S Dorangla, age 45 years, Mobile No. 8699282772. It is stated that I am resident of aforementioned address and is house hold lady. I have two children. Elder daughter name is Pallavi who is 15 years of age and Younger son is Joban who is 14 years of age. I am working as maid in order to earn my livelihood. My daughter Pallavi has passed 10th class and now she is doing house work. My mother-in-law Mahindro always remain ill.



Yesterday on 08.07.2024 at 07:30AM I had gone for doing my work as maid and my son had gone to school. Since my mother-in-law was not well, therefore, my husband Sonu Masih went to Dhariwal alnongwith my mother-in-law for giving her medicine. My daughter Pallavi was alone in the house. I came to my house at 03:00 PM. My daughter Pallavi told me that time was around 12:00 noon, Sardool S/o Hira Masih R/o Daburhi came to our house who is son of brother of my father-in-law and had started misbehaving with my daughter and tried to commit rape. My daughter had started shouting and pushed him, then he ran away from the spot. Sardool Masih has committed wrong with my daughter while misbehaving with my daughter and has tried to commit rape upon her. We were under shock and were going to inform you and you have met us. Legal action be taken against the accused person. Statement has been got recorded and is read over which is correct. I have got recorded this statement is presence of my husband. Sd/- Violet, Sd/- Sonu Masih attested by Harpreet Kaur, SHO, P.S Dinanagar, dated 09.07.2024.'

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 9.7.2024. Learned counsel has further argued that the the FIR in question was got registered on account of misunderstanding which has now been resolved by way of compromise entered into between the parties on 23.8.2024. Learned counsel for the petitioner has further submitted that total 18 prosecution witnesses have been cited and culmination of the trial will take long time. 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 17.9.2024 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 9.7.2024 wherein after investigation was carried out and challan qua the petitioner was presented on 3.9.2024. Total 18 prosecution witnesses have been cited and culmination of the trial, of course, will take its own time. The rival contention of learned counsel for the parties; as to whether the petitioner was falsely implicated in the FIR in question as also the weightage required to be attached to the compromise dated 23.8.2024; 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 19.9.2024 filed by learned State counsel, the petitioner has already suffered incarceration for a period of two months and nine 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

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