

CRM-M-47161-2024 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-47161-2024 (O&M)

Date of Decision: 25.09.2024

VISHNU

.. Petitioner

Vs.

STATE OF HARYANA

..Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Dheeraj Narula, Advocate for the petitioner.

Ms. Priyanka Sadar, AAG, Haryana.

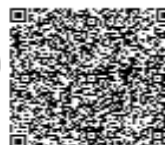
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SUMEET GOEL, J. (Oral)

1. The instant petition has been filed on 13.09.2024 under Section 439 of Cr.P.C., 1973 for grant of regular bail.

As per the judgment rendered by this Court titled '*Abhishek Jain Vs. State of U.T. Chandigarh and another*' (CRM-M-31808-2024) **2024PHHC085784**, the instant petition is not maintainable under Section 439 of Cr.P.C., 1973. However, keeping in view the entirety of facts and circumstances of the case especially that the instant petition pertains to regular bail, the instant petition is directed to be considered as a petition under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023.

Present petition has been filed for grant of regular bail to the petitioner in case bearing FIR No.13 dated 03.03.2024, registered for the offences punishable under Sections 363 and 366-A of IPC, 1860 at Police Station Rori, District Sirsa, Haryana.

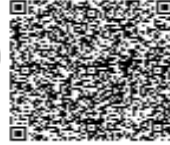
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2. The case set up in the FIR in question (as set out by the petitioner in the present petition) is as follows:-

“To the SHO Sahab, PS Rori, Sir, It is requested that I Subedar s/o Dhuri Lal r/o village Suki Mandaiya, Tehsil Seswan, Distt. Badau (UP) now residing at Bala Ji Brick Kiln, Kalanwali road, Rori and I am working on the brick kiln for the last 4-5 months and reside alongwith my family members. I have three sons and three daughters. That on 01.03.2024 in the evening 08/09 pm, my daughter Pooja had come near the office of brick kiln to fetch water and my younger son Hari Babu was sent back to the house. That we have been waiting my daughter Pooja during night who did not come back to the house after fetching water. We searched her out during night at the brick kiln but my daughter Pooja could not be traced out. My daughter Pooja is 15 years of age. That we have a suspicion that Vishnu s/o Chunna Ram r/o Parsoli Distt. Banda (UP) now residing at Bala Ji Brick kiln who is working on the brick kiln has enticed away my daughter Pooja aged 15 years on the pretext of marriage. That after initiating action, my daughter Pooja may be got recovered. Sd/ Subedar Applicant Subedar s/o Dhuri Lal, Bala ji Brick Kiln, Rori, M-76681-19829.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 09.04.2024. Learned counsel for the petitioner has submitted that there was consensual friendship between the petitioner and the victim which was not to the liking of the family of the victim & hence the petitioner has been falsely implicated into the FIR in question. To buttress his arguments, learned counsel for the petitioner has relied upon the statement made by the victim at the time of her medical examination as also her statement made under Section 164 of Cr.P.C. on 08.04.2024 before the concerned Judicial Magistrate. Thus, regular bail is prayed for.

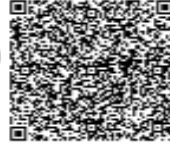
4. Learned State counsel has opposed the present petition arguing that the allegations raised are serious in nature and thus the petitioner does not deserve the concession of the regular bail.

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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 09.04.2024 whereinafter investigation was carried out & challan was presented on 04.07.2024. Total 14 prosecution witnesses have been cited and culmination of the trial will, but of course, take its own time. The rival contention of the learned counsel for the parties; as to whether the petitioner has been falsely implicated into the FIR in question on account of his having consensual friendship with the victim which was not to the liking of the family of the victim as also the weightage required to be attached to the statement made by the victim at the time of her medical examination as also the statement made by her under Section 164 of Cr.P.C.; 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. As per the custody certificate dated 24.09.2024 filed by the learned State counsel, the petitioner has suffered incarceration for more than 05 months and 15 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

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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 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.



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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.

25.09.2024
Jasmine Kaur

(SUMEET GOEL)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No