

2024:PHHC:012276

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

217

CRM-M-50691-2023
Date of decision: 30.01.2024

Chandani

....Petitioner

V/s

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Saleem Ahmed, Advocate,
for the petitioner.

Ms. Priyanka Sadar, AAG, Haryana.

SUMEET GOEL, J. (ORAL)

1. Present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.052 dated 14.02.2023, registered for the offences punishable under Sections 363, 366 of IPC and Sections 6 & 17 of the Protection of Children from Sexual Offences (POCSO) Act, 2012 were added later on, at Police Station Sector 31, Faridabad District Faridabad.

2. The case set up in the FIR in question is as follows:-

“To SHO, Police Station, Sector-31, Faridabad. Sir, it is requested that my name is Rani Devi wife of Late Shri Jagdish Mehto R / o Rajiv Nagar, Faridabad. That on 13.02.2023, my daughter aged 16 years is missed from the house that I believe that Vishwas son of Anand has abducted my daughter residing in Santosh Nagar. That my daughter wearing white jacket and T-shirt, Black colour Jeans and green sleeper, her colour is wheatish, slim body and height is 5' 2". It is requested you to get

search my daughter. That I have fully confident that Vishwas has kidnapped my daughter by alluring and with the intention to marry with her. Legal action be taken against him. Sd/- Rani Devi. 9667831306. On receiving of above application at police station FIR No. 52 dated 14.02.2023 U/s 363, 366-A IPC registered at police station, Sector-31, Faridabad. After preparing the copies of FIR from the computer, the same are sending through special constable Deepak 2459 to Illaqa Magistrate and concerned officers for information. ASI, Rajesh 3208 along with original copy and complainant is proceeding to the occurrence place for further investigation. This FIR has been registered in the presence of ASI, Rajesh 3208.”

3. Learned counsel for the petitioner contends that the petitioner is in custody since 08.05.2023 & challan already stands presented on 05.06.2023 wherein total 22 prosecution witnesses have been cited. It has been further argued by the learned counsel that the material prosecution witnesses have already resiled and hence the case in hand does not appear to be a case of conviction and, in all likelihood, the trial is likely to result in acquittal of the petitioner. Thus, regular bail has been prayed for.

4. Learned counsel for the State 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 regular bail.

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

6. Investigation in the case has already completed & the trial is underway wherein complainant (PW-2) as also the victim (PW-1) have resiled from the prosecution version. The weightage required to be attached to the testimony of these witnesses who have resiled from the prosecution

version will be seen during the course of trial. This Court does not deem it appropriate to delve deep into merits thereof lest it may prejudice the case of the either parties. No tangible material has been brought before this Court to indicate likelihood of the petitioner absconding from the process of justice or interfering with the prosecution evidence. As per the custody certificate dated 29.01.2024 filed by the learned State counsel, the petitioner has suffered incarceration of more than 8 months. She is a lady aged about 30 years & is required to take care of her child aged about 3 years. Suffice to say, further detention of the petitioner as an undertrial is not warranted.

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 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/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.

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

(SUMEET GOEL)
JUDGE

January 30, 2024
poonam

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