

CRM-M-48468-2024 (O&M)

221

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-48468-2024 (O&M)

Date of Decision: 01.10.2024

PARVEEN

.. Petitioner

Vs.

STATE OF HARYANA

..Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Virender Soni, Advocate for the petitioner.

Ms. Ankita Ahuja, AAG, Haryana.

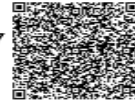
...

SUMEET GOEL, J. (Oral)

The instant petition has been filed on 23.09.2024 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.

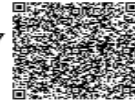
1. Present petition has been filed for grant of regular bail to the petitioner in case bearing FIR No.282 dated 10.08.2023, registered for the offences punishable under Sections 341/354/365/376(3)/376D/506/114/34 of IPC and Sections 6/17 of POCSO Act at Police Station Sadar Rohtak, District Rohtak.

**CRM-M-48468-2024 (O&M)**

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

“Sir, The circumstances of the case are that on 10.08.2023, the complainant Jitendra S/O Ramratna resident of village Khidwali, District Rohtak came to the police station and presented a written application, the details of which is "To, The SHO, Police Station Sadar Rohtak. Sir, My humble request is that I am Jitendra S/O Ramratna resident of Khidwali. My daughter had left for school in the morning. Who studies in 10th class in the village school. She was kidnapped while going to school at 7:30 in the morning. I came to know that the boys of my neighbourhood were involved and took her in a car from the bus stand of the village. I lodged my complaint about the same at 112 number. After that I told my younger brother Dharmendra that Siya has been kidnapped and asked my brother Dharmendra to come to Sadar Police Station Rohtak. Then I reached Sukhpura Chowk to come to Police Station Sadar Rohtak, then I saw that my daughter Siya, whose age is about 15 years old, is standing at Sukhpura Chowk. To whom I took and came to Police Station Sadar Rohtak regarding this and after my brother Dharmendra came, we both asked Siya and she told that I was going to school. The driver blocked my way and forcibly made me sit in the car. Then they started misbehaving with me. I kept crying and shouting, so they said if I made noise, they would kill me. Even then they did wrong things with me one by one and then took me to a hotel. The rest were left outside. Sahil alias Chotu took me to the hotel and then did wrong things with me there and Vicky and the driver stood outside the hotel. I request you to take legal action against the culprits for forcefully kidnapping my minor daughter Siya and doing wrong things with her. Sd/ - Jitendra 8570006814.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 13.08.2023. Learned counsel for the petitioner has submitted that the victim has been repeatedly changing her stand which fact is decipherable from the bare reading of the FIR, statement of the victim recorded by the police under Section 161 of Cr.P.C. on 10.08.2023, statement made by the victim on 11.08.2023 under Section 164 of Cr.P.C. before the concerned judicial Magistrate as also the statement made by the victim (when examined as a prosecution witness) before the Court on

**CRM-M-48468-2024 (O&M)**

27.03.2024/25.04.2024. It has been further submitted by the learned counsel for the petitioner that there are total 46 cited witnesses by the prosecution out of which only 5 have been examined till date and thus the trial will take long to culminate. Learned counsel for the petitioner has further submitted that the prime prosecution witness, namely, the victim already stands examined and thus there is no likelihood of the petitioner interfering with the important prosecution evidence. 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.

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

6. The petitioner was arrested on 13.08.2023 whereinafter investigation was carried out & challan was presented on 15.09.2023. Total 46 prosecution witnesses have been cited and culmination of the trial, but of course, will take its own time as only 5 prosecution witnesses have been examined till date. It is not in dispute that the testimony of the victim already stands recorded as a prosecution witness in Court. The rival contention of the learned counsel for the parties; regarding the alleged improvement in the statement/stand of the victim in the FIR, statement made by her before the police under Section 161 of Cr.P.C. on 10.08.2023, statement made by her under Section 164 of Cr.P.C. before the concerned Judicial Magistrate on 11.08.2023 as also the statement made by the victim as a prosecution witness on 27.03.2024/25.04.2024; shall be gone into

**CRM-M-48468-2024 (O&M)**

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 30.09.2024 filed by the learned State counsel, the petitioner has suffered incarceration for more than 01 year, 01 month and 17 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 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



CRM-M-48468-2024 (O&M)

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.

01.10.2024

Jasmine Kaur

(SUMEET GOEL)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No