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IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

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Date of Decision: 14.10.2024

RAJINDER SINGH

.. Petitioner

Vs.

STATE OF HARYANA

..Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Tushar Gautam, Advocate for the petitioner.

Ms. Priyanka Sadar, AAG, Haryana.

...

**SUMEET GOEL, J. (Oral)**

1. Present petition has been filed under Section 483 of BNSS, 2023 for grant of regular bail to the petitioner in case bearing FIR No.50 dated 31.01.2023, registered for the offences punishable under Sections 4 and 6 of POCSO Act, 2012 (Section 6 of POCSO Act added later on) and Sections 363 and 366-A of IPC at Police Station Naraingarh, District Ambala.

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

*“The brief facts of the case are like this that on dated 31.01.2023, SI Naresh Kumar alongwith SPO Charanjit No. 363 were present at Panjlasa Chowk, Naraingarh for investigation in the case FIR no. 43/23 under section 346 IPC registered at Police Station, Naraingarh. In the meantime, Chinto Devi wife of Lachhman Dass, resident of village Raipur Viran, Naraingarh, P.S. Naraingarh, Distt. Ambala has submitted a complaint before SI Naresh Kumar by presenting herself and the contents of the same are like this. To SHO police Station, Naraingarh. Sir, it is submitted that I, Chinto Devi wife of Lachhman Dass, am resident of village Raipur Viran, Naraingarh, P.S. Naraingarh, Distt. Ambala. My*



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*daughter Pinki is married one who remains mentally disturbed. On this account, her daughter Lalita alias Neha is living with me and she is studying there. On dated 28.1.2023, Lalita alias Neha had gone to her school in routine manner but till the evening she did not come back to the house. I have tried to search out her in her own ways till date and also made her search from the relatives. But Laita did not found. I have a suspicion that Lalita has been enticed away by Rajinder son of Mohan Lal, resident of village Manglor, Distt. Yamuna Nagar with an intention to solemnize the marriage with her. Lalita is aged about 17 years. Kindly make the search of Lalita alias Neha and legal action be taken.”*

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 27.03.2023. Learned counsel for the petitioner has submitted that all the private prosecution witnesses, including the victim, stand examined. Learned counsel for the petitioner has further submitted that there was consensual friendship between the petitioner and the victim which was not to the liking of the family of the victim and it is on this account that the petitioner has been falsely implicated into the FIR in question. Learned counsel for the petitioner has further submitted that the victim had in fact filed a protection petition (CRWP-1198-2023) before this Court, wherein she had initially stated that she did not wish to go with her parents but later on she made a reverse statement by saying that she wants to go with her parents. Learned counsel for the petitioner has further submitted that the statement made by the victim under Section 164 of Cr.P.C. as also the testimony recorded by her as a prosecution witness has been on account of tutoring of her family members. 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 27.03.2023 whereinafter investigation was carried out & challan was presented on 26.06.2023. Total 22 prosecution witnesses have been cited out of which only 12 have been examined till date. It is not in dispute that all private prosecution witnesses stand examined. The rival contention of the learned counsel for the parties; as to whether there was consensual friendship between the petitioner and the victim which was not to the liking of the family of the victim & as to whether the petitioner has been falsely implicated into the FIR in question on this account; the relative weightage required to be attached to the statement made by the victim under Section 164 of Cr.P.C. as also her statement made as a prosecution witness viz-a-viz her stand taken before this Court in the protection petition filed earlier by her; 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. This is the second bail petition preferred on behalf of the petitioner before this Court. The first bail petition preferred by the petitioner was dismissed as withdrawn on 04.04.2024 as the 2 material private witnesses were yet to be examined at that time. In the considered opinion of this Court, this factum is sufficient to be considered as a sufficient change in circumstance for consideration of the instant bail petition. 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 13.10.2024 filed by the

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01 year and 06 months & 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 Station and shall not change his cell-phone number without prior permission of the trial Court/Illaqha Magistrate.
- (vii) The petitioner shall not in any manner try to delay the trial.



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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.

14.10.2024  
Jasmine Kaur

(SUMEET GOEL)  
JUDGE

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|---------------------------|-----|----|
| Whether speaking/reasoned | Yes | No |
| Whether reportable        | Yes | No |