



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

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**CRM-M No.49243 of 2024 (O & M)
Date of decision : 4.10.2024**

Yashwant**Petitioner**
Versus
State of Haryana**Respondent**

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Ms. Pooja Jaglan, Advocate, for the petitioner
Ms. Priyanka Sadar, AAG, Haryana

SUMEET GOEL, J. (ORAL)

The instant petition has been filed on 26.9.2024 under Section 439 Cr.P.C. for grant of regular bail.

As per the judgment rendered by this Court titled as '*Abhishek Jain v. State of U.T. Chandigarh and another*' (CRM-M No.31808 of 2024, 2024:PHHC:085784), the instant petition is not maintainable under Section 439 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 BNSS, 2023.

1. The instant petition has been filed for grant of regular bail to the petitioner in case FIR No.119 dated 25.2.2024, under Sections 323, 342, 377, 511 of the IPC (Sections 365 and 376-D of the IPC added later on),



registered at Police Station Chandni Bagh, Panipat.

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

'On dated 25.02.2024, complainant/ prosecutrix came present in police station which is as follows: to SHO, police station Chandni Bagh, Panipat. Sir, it is requested that I dinesha Ravinder D/o ravinder Kuppuswami r/o house no. 701 Rose Gurukul road, sector 41-42 Faridabad at present r/o Arora PG Mittal Mega, sector 25, part 2, Panipat. I am 23 years old. From dated 12.02.2024, I started staying in Arora PG. on dated 22.02.2024 at about 10 PM, after buying food I was returning to PG, then two unknown boys were present near mittal mega mall on bike HR16X9320 and they were staring me. I asked as to why they were staring me, they said that they want to do friendship with me. We shared phone numbers. Both the boys were drunk, they put their hand around my neck and said that we can talk in ground. Then they forcefully made me sit between them and threatened me to go with them and not to shout otherwise they will kill me. They were talking that they should take the girl to their room in vikas nagar and then they took me to their room. I saw that no was present in the room, they tried to forcefully made physical relations with me. I started shouting, naveen pressed my mouth and Yaswant tried to do unnatural sex with me. I kicked him and started shouting and after that they left me and after that as it was night time, due to fear I requested them to drop me at my PG, they dropped me at my PG gate and after that out of fear, I did not tell anyone. On Saturday my father came to pick me up, I went to Faridabad with my father and I told everything to my father. A strict legal action be taken against them.'

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 28.2.2024. Learned counsel has further argued that a reading of the FIR alongwith the statement made by the victim under Section 164 Cr.P.C. before the concerned Judicial Magistrate on 26.2.2024 would reflect that there was relationship/friendship between the victim and the petitioner-Yashwant. Learned counsel has further



submitted that the victim had refused to undergo medical examination, as required in law on 26.2.2024. Learned counsel has further argued that the petitioner is a young man aged 23 years with no criminal antecedents. Thus, 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 3.10.2024 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 28.2.2024 whereinafter investigation was carried out and challan stands presented on 17.4.2024. Total 17 prosecution witnesses have been cited and culmination of trial will, but of course, take its own time. The rival contention of learned counsel for the parties; as to whether there was some kind of relationship/friendship between the victim and the petitioner-Yashwant and the weightage required to be attached to the refusal on part of the victim to have her medical examination conducted; 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 prosecution evidence. As per custody certificate dated 3.10.2024 filed



by learned State counsel, the petitioner has already suffered incarceration for a period of seven months and five days and 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 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.
- 11. Pending miscellaneous application(s), if any, stand disposed of accordingly.

(SUMEET GOEL)
JUDGE

4.10.2024
Ashwani

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