



1

CRM-M-50761-2024 (O&M)

314

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-50761-2024 (O&M)

Date of Decision: 23.10.2024

MANJINDER @ MANINDER GAKHAR

.. Petitioner

Vs.

STATE OF PUNJAB

..Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Prabhjot Singh, Advocate for the petitioner.

Mr. Yuvraj Singh Tiwana, Asstt. A.G., Punjab.

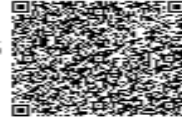
...

SUMEET GOEL, J. (Oral)

1. Present petition has been filed under Section 483 BNSS, 2023 for grant of regular bail to the petitioner in case bearing FIR No.207 dated 12.12.2022, registered for the offences punishable under Sections 354/506/34 of IPC, Sections 13/14 of POCSO Act and Section 67-B of IT Act (Section 376 of IPC and Section 6 of POCSO Act added later on) at Police Station City Jalalabad, District Fazilka.

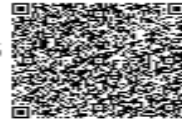
2. The case set up in the FIR in question (as set out by the petitioner in the present petition) is as follows:-

To, Subject: Respected Sir, Hon'ble S.H.O. Sir, Police Station City Jalalabad(west). Subject: Application against Rajinder Gakhar son of Banarsi Das Mobile No. 98552-24516, 2) Maninder Gakhar son of Rajinder Gakhar Mobile No. 77176-38067 residents of Near Girls School, Jalalabad Tehsil Jalalabad District Fazilka; for giving threats of killing and blackmailing and publishing obscene photos and videos of my girl. Respected Sir, I am Preeti Bala wife of Vinod Kumar resident of Mongeya Wali Street, Jalalabad Tehsil Jalalabad District Fazilka, Whereby, previously also I had given one application to the Hon'ble SSP, Fazilka against the above said accused on dated 18/10/2022 whose UID NO.2255/SPL/PC, which was sent by the Hon'ble S.S.P., Fazilka to the DSP Jalalabad, for hearing. Where he called me and the accused. This application is under hearing. Where the Hon'ble DSP, Jalalabad had instructed the accused to bring the mobile phone of the applicant's

**CRM-M-50761-2024 (O&M)**

daughter. But till today this mobile phone has not been given by them and I and my husband have also started receiving threats from the accused that if you do not withdraw your application then we will publish/viral the obscene photos and videos of your girl on social media. After not withdrawing my application, they made my girl's photos and videos viral on social media. After the photos and videos went viral, we started getting calls from relatives on which my daughter has come under mental depression and I am afraid that my daughter may not do anything to herself. That this information was given by us to the honorable S.H.O. Sir, Police Station City Jalalabad and the honorable SHO Sir also had gone to the spot and investigated. Therefore, through the application, it is requested that the said accused be arrested and the photos and videos from social media be removed and the accused's mobile phone and laptop be seized so that I, my family and my daughter can also get justice. It will be your kindness. Applicant SD/- Preeti Bala wife Vinod Kumar resident of Mongeya Wali Street, Jalalabad Tehsil Jalalabad District Fazilka Mobile No.82644-65128 dated 12-12-2022."

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 14.12.2022. Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated into the FIR in question as the father of the petitioner had filed a criminal complaint under Section 138 of the Negotiable Instruments Act, 1881 against the father of the victim on 16.05.2022 in respect of a cheque which had bounced on 21.04.2022 and a notice in this regard was also served upon the father of the victim on 28.04.2022. Learned counsel for the petitioner has iterated that even earlier complaints had been filed at the instance of the family of the victim on 29.03.2022 before the SSP, Fazilka as also on 07.03.2022 before SHO, Police Station City Jalalabad, District Fazilka, Punjab wherein the allegations made were completely different from those mentioned in the present FIR as also the DDRs. Learned counsel for the petitioner has contended that the earlier bail petition preferred by the petitioner was dismissed as withdrawn on 30.05.2024 as the testimony of the father of the victim as also the mother of the victim was not recorded at that time. Learned counsel for the petitioner has further submitted that the testimony

**CRM-M-50761-2024 (O&M)**

of the victim already stands recorded as a prosecution witness. 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.

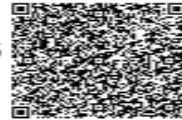
5. I have heard counsel for the parties and have gone through the available records of the case.

6. The petitioner was arrested on 14.12.2022 whereinafter investigation was carried out & challan was presented on 10.02.2023. Total 17 prosecution witnesses have been cited out of which only 3 have been examined till date. Therefore, indubitably, culmination of the trial will take its own time. It is not in dispute that all the private prosecution witnesses stand recorded. The rival contention of the learned counsel for the parties; as to whether the petitioner has been falsely implicated into the FIR in question and as to whether there was any cheque bouncing/money dispute between the petitioner and the family of the victim; 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.

The first bail petition preferred on behalf of the petitioner was dismissed as withdrawn on 30.05.2024, order wherein reads as under:

“1. Faced with the situation that the testimony of the father of the victim as also mother of the victim (who are cited prosecution witnesses) has not yet been undertaken, learned counsel for the petitioner seeks to withdraw the present petition at this stage.

2. Dismissed as withdrawn at this stage.

**CRM-M-50761-2024 (O&M)**

3. The trial Court is directed to make an earnest endeavour to record the testimony of the father of the victim as also mother of the victim, who are cited prosecution witnesses, at the earliest.

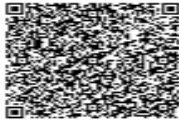
4. Pending application(s), if any, shall also stand disposed off.”

It is not in dispute that the testimony of the father of the victim as also the mother of the victim (who are cited as prosecution witnesses) stand recorded since then. It is the further admitted case of the rival counsel before this Court that all private prosecution witnesses stand examined. Therefore, this factum is a sufficient change in circumstance to favourably consider the instant bail petition (second bail petition).

As per the custody certificate dated 22.10.2024 filed by the learned State counsel, the petitioner has suffered incarceration for more than 10 months and 10 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.



CRM-M-50761-2024 (O&M)

- (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.
- 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.

23.10.2024
Jasmine Kaur

(SUMEET GOEL)
JUDGE

Whether speaking/reasoned

Whether reportable

Yes No

Yes No