

CRM-M-51749 of 2024

1

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

219

CRM-M-51749 of 2024

DATE OF DECISION :- 24.10.2024

Ramu @ Gaurav

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. Balraj Gujjar, 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.1073 dated 15.12.2023, registered for the offences punishable under Section 346 of IPC (later on added Sections 323/376(2)(n), 506 and 34 of IPC) at Police Station Sector 58, District Faridabad, Haryana.
2. The case set up in the FIR in question (as set out in the present petition by the petitioner) is as follows:-

“To, The Incharge, Police Post Sikrona Faridabad, Sir, it is requested that I, Vinod S/o Late Ramsawroop am resident of village Karnera, police station Sector-58, District Faridabad and serving in a private company. That my wife had expired about 7 years ago. I have 5 children amongst them 3 girls and 2 boys. I have married off my two elder daughters. The name of my 4th number daughter is Neha, aged 22 years. My daughter Neha has studied up to 9th class. At present she was living at home. Today on 15.12.2023 at about 3:00 O'clock in the evening she had gone to the shop for purchasing some household items, but she didn't return home after buying the household items. I searched my daughter Neha in the neighborhood and on the shops of the



village, but she was not found. The appearance of my daughter Neha is as follows: Colour: whitish; Thin, long face, muscular body; near the thumb of right-hand 'N' letter of English has been marked with antimony/Surma; height: 4'10", aged 22 years; Attire: wearing Henna colour suit, black coat, white salwar and slippers of feet. I was searching my daughter Neha, aged 22 years up till now on my own level, but she not found. Please search my daughter Neha. Applicant: Vinod, Mobile No.83838-13322 & 92059-59013). Police proceedings: Today I HC am present in the police station. In the meantime, abovesaid Vinod came in the Police Post and submitted an application to me / the HC. Thus, from the contents of the application. On found of the offence committed U/s 346 I.P.C.; the application is being sent to the police station Faridabad through Sepoy Kuldeep No.2067/FBD for the registration of a case / FIR. After registration of case; number of the FIR be intimated to me. I/ HC am going to the spot of incident together with the applicant. Today at Police Post Sikrona (Faridabad). Sd/ Jaiveer Singh, HC Police Post Sikrona, police station Sector-58, Faridabad. Dated: 15.12.2023 at 10:30 P.M. Today in police station: As per the receipt of the application in this police station through arrived Sepoy No.2067/FBD, a case / FIR No.1073 dated 15.12.2023 registered U/s 346 I.P.C., and CCTNS Computer copies of FIR prepared as per rule and will be sent to the Illaqa Magistrate and concerned officer Sahiban through post. Copy of police file along with original application is being sent to the 1/0 on the spot through coming Sepoy. Note: This case has registered in the CCTNS Computer ID of A.S.I. Narender No. 115/FBD AND in the presence of HC Ravishankar No.405/FBD. I/O of this case is he Jaiveer No.2500/FBD Police Post Sector-55, FBD. Mobile No. 94165- 13564."

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 22.12.2023. Learned counsel has further argued that the petitioner has been falsely implicated into the FIR in question as there was money dispute between the petitioner and the family of the victim. Learned



counsel for the petitioner has further argued that there is inexplicable delay of one month in registration of the FIR in question. Learned counsel for the petitioner has further submitted that the victim-Neha and complainant-Vinod are not turning up, despite being afforded sufficient opportunities, for recording of their testimonies as PWs. In this view of the matter, learned counsel has prayed for grant of regular bail.

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. Learned State counsel seeks to place on record custody certificate dated 22.10.2024 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 22.12.2023 whereinafter investigation was carried out and challan stands presented on 19.03.2024. Total 17 prosecution witnesses have been cited, and, till date no witness has been examined. The rival contention of learned counsel for the parties; as to whether the petitioner has been falsely implicated into the FIR in question on account of a money dispute; 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 22.10.2024 filed by learned State counsel, the petitioner has already suffered incarceration for a period of 10 months & is not shown to be involved in any other case. The first bail petition preferred on



CRM-M-51749 of 2024 **4**

behalf of the petitioner before this Court was dismissed as withdrawn on 22.08.2024, order passed wherein reads as follows :-

“SUMEET GOEL, J. (Oral)

Faced with the situation that the victim is yet to be examined as a prosecution witness, learned counsel for the petitioner seeks permission to withdraw the present petition at this stage.

Ordered accordingly.”

A perusal of the zimni orders dated 27.08.2024 and 03.10.2024 indicates that the prime prosecution witnesses namely PW-Neha (victim) and PW-Vinod (complainant) of the FIR are not turning up to have their testimonies recorded and, in fact, bailable warrants have been issued against them & the next date fixed in the trial Court is 09.12.2024. At this juncture, it would be apposite to refer herein to a judgment passed by the Hon’ble Supreme Court in a case of ‘***Javed Gulam Nabi Shaikh Vs. State of Maharashtra and another***’ decided in ***Criminal Appeal No.2787 of 2024 arising out of SLP (Crl) No.3809 of 2024***’, relevant whereof reads as under:-

“19. If the State or any prosecuting agency including the court concerned has no wherewithal to provide or protect the fundamental right of an accused to have a speedy trial as enshrined under Article 21 of the Constitution then the State or any other prosecuting agency should not oppose the plea for bail on the ground that the crime committed is serious. Article 21 of the Constitution applies irrespective of the nature of the crime.

20. We may hasten to add that the petitioner is still an accused; not a convict. The over-arching postulate of criminal jurisprudence that an accused is presumed to be innocent until proven guilty cannot be brushed aside lightly. howsoever



stringent the penal law may be.

21. We are convinced that the manner in which the prosecuting agency as well as the Court have proceeded, the right of the accused to have a speedy trial could be said to have been infringed thereby violating Article 21 of the Constitution.”

Once the prosecution witnesses are not coming forward to have their testimonies recorded and the trial Court is constrained to issueailable warrants to secure their presence, this Court does not deem it appropriate to keep the petitioner into further custody.

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/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.

(SUMEET GOEL)
JUDGE

24.10.2024
P.Singh

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No