

CRM-M-55858-2023

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-55858-2023

Date of decision: 19.01.2024

Shashi alias Palwinder Singh

....Petitioner

V/s

The State of Punjab

....Respondent

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Madan Sandhu, Advocate for the petitioner.

Mr. Anup Singh AAG Punjab.

SUMEET GOEL, J. (Oral)

1. Present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.194 dated 27.08.2022, registered for the offences punishable under Sections 376 IPC and Section 4 of the POCSO Act, 2012 (added later on) and Section 452 IPC (added later on) at Police Station City, District Kapurthala.

2. The case set up in the FIR in question is as follows:-

“Statement of Asha wife of Gurpreet Singh, resident of Sunder Nagar, Near Mata Chint Purni Mandir, PS City Kapurthala aged 35 years mobile no. 97790-82499, stated that I am earning my livelihood by working as maid servant in the houses of other people and I have two daughters, one son and one daughter in law, my elder daughter is married and my son Bunty is working at shop of Tandiaya and my husband has been admitted in Drug de Addiction Centre, Hoshiapur and my younger daughter, whose name is P@P and I am not having any proof of date of birth and exact age. On 23.08.2022 at about 10.30 A.M. as per my routine I went for doing work in other houses and returned to house at 8.30 P.M. and I found that my daughter in law and my younger daughter were frightened and distressed and I enquired the reason for their such condition thereupon, which, the younger daughter disclosed that Shashi, who is living nearby and had taken her to his house and had committed wrong

acts with her and she raised rolla also but he put chuni to her mouth and committed wrong act. Then I went to the house of Shashi and enquired from him about the incident and Shashi stated that there were so many matters to discuss but anyhow, he did not care of the same and I could do whatever I liked to do. I after making due consultation with my family, I have come to you, So, it is requested that appropriate legal action be taken against Shashi son of Jaspal Singh resident of Sunder Nagar, P.S City Kapurthala. I have given statement without any fear and without any pressure and have come with my son Bunty. I have got my statement recorded, read, heard which is correct.sd/- Asha wife of Gurpreet Singh, Sd/- Bunty dated 27.08.2022. Sd/ Depilka S.I P.S City Kapurthala.

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 01.01.2023; after completion of investigation, challan has been presented and material prosecution witnesses have turned hostile. In order to substantiate his arguments, learned counsel has referred to testimonies of PW-1 (Priyanka @ Pinki-victim), PW-2 (Asha-complainant), PW-3 (Bunty-Son of the complainant) as also PW-4 (Simran-daughter-in-law of the complainant) to argue that the instant case does not appear to be a case of conviction and in all likelihood, trial is likely to result in acquittal of the petitioner. Thus, it is argued that no useful purpose would be served by keeping the petitioner behind the bars.

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 19.01.2024 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. After the accused having been arrested on 01.01.2023, challan was presented wherein total of 18 prosecution witnesses have been cited. Trial is underway. The rival contention of the parties as to the weightage required to be attached to the testimonies of hostile witnesses will be seen during the course of trial. This Court does not deem it appropriate to delve deep into the rival contentions, at this stage, lest it may prejudice the case of either parties. As per custody certificate dated 19.01.2024 filed by the State of Punjab, the petitioner has already suffered incarceration for a period of more than 01 year & same does not reflect involvement of the petitioner in any other serious offence. No tangible material has been brought forward to indicate the likelihood of the petitioner fleeing from the process of law or interfering with the remaining prosecution evidence. In considered opinion of this Court, in the facts and circumstances of the case, further detention of the petitioner is not warranted.

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 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/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.

(SUMEET GOEL)
JUDGE

January 19, 2024
Ajay

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