

**CRM-M-52421 of 2024****1****IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****216****CRM-M-52421 of 2024****DATE OF DECISION :- 13.11.2024****Parveen Kumar****...Petitioner****Versus****State of Punjab****...Respondent****CORAM: HON'BLE MR. JUSTICE SUMEET GOEL****Present:-** Ms. Kirandeep Kaur, Advocate for the petitioner.

Mr. Anup Singh, AAG, Punjab.

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

The instant petition has been filed on 09.10.2024 under Section 439 of Cr.P.C, 1973 for grant of regular bail.

As per the judgment rendered by this Court titled '*Abhishek Jain Versus State of U.T. Chandigarh and another*' (CRM-M-31808 of 2024) 2024PHHC085784, the instant petition is not maintainable under Section 439 of Cr.P.C, 1973. Later on added Section 376 of IPC and Sections 3 & 4 of POCSO Act. 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. Present petition has been filed for grant of regular bail to the petitioner in case bearing FIR No.67 dated 20.03.2024, registered for the offences punishable under Sections 363 & 366-A of IPC at Police Station City Budhlada, District Mansa.



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

"Copy of statement, "Statement of Jiwan Kumar @ Jimmy son of Kalu Ram son of Mohan Lal resident of Ward No. 13, Near Kewal Pradhan Wali Gali, Near Tote Wala Bagh, Budhlada, Age about 44 Years, Mob. No. 99156-92490. I hereby state that I am resident of above mentioned address and I do shop-keeping. I have three children. Two daughters and one son. My daughter Siya Rani Date of Birth is 02.07.2006 studies in +2 Class, who on dt. 16.03.2024 at time about 2:30 PM had gone from home and till date we were trying to trace her at our own level. Now I have come to know that Khushpreet Singh son of Suraj Bhan resident of Akanwali, District Fatehabad, Haryana used to stalk my daughter quite often and he has taken my daughter somewhere by enticing her on the pretext of marriage. We were going to you for taking action and you met. Legal action be taken against above mentioned Kushpreet Singh. Statement recorded, heard, is correct. Sd/- Jiwan Kumar @ Jimmy. Attested, Sd/- Gurmel Singh ASI PS City Budhlada Date 20.03.2024. Police Proceedings: Today I, ASI alongwith HC Jaswinder Singh 1469/MNS, S/Ct. Paramjit Singh 1020/MNS, L/Ct. Harman 602/MNS were present near Hanuman Temple Budhlada for patrolling and checking of suspicious persons and in the meantime Jiwan Kumar @ Jimmy son of Kalu Ram son of Mohan Lal resident of Ward No. 13, Near Kewal Pradhan Wali Gali, Near Tote Wala Bagh, Budhlada came and recorded his above statement to me, which is read over to him after writing and after hearing and admitting his statement to be correct he gave his signature below the statement, which is attested by me. From statement, prima-facie offence punishable under sections 363,366-A IPC is made out.. Therefore, statement is being sent to police station by the hand of L/Ct. Harman 602/MNS for registration of FIR against mentioned Khushpreet Singh. intimated after registration Number of above be FIR. Intimation be given to PCR Mansa. Special reports be issued. I,



ASI am departing for the place of occurrence to investigate. Sd/- Gurmel Singh ASI PS City Budhlada Date 20.03.2024. Now present near Hanuman Temple Budhlada at 03:30 PM." At receipt of statement at police station, present FIR is registered against above mentioned Khushpreet Singh under above mentioned sections. Entry made in record and record completed. Case file alongwith original statement is being sent by the hand of coming L/Ct. Harman 602/MNS to ASI Gurmel Singh 534/MNS at the spot. Copies of FIR are being sent as special reports to Area Magistrate Sahib and senior officers by the hand of S/Ct. Bhupinder Singh 1559/MNS. Intimation is being given to PCR Mansa."

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 05.04.2024. Learned counsel for the petitioner has iterated that the only role attributed to the petitioner is that he has helped the main accused in eloping away with the victim. Learned counsel for the petitioner has further iterated that the petitioner is not specifically named in the FIR as also the statement made by the victim under Section 164 of Cr.P.C. Learned counsel for the petitioner has further argued that no proper TIP (Test Identification Parade) was conducted by the police and thus there is no basis for implicating the petitioner into the FIR in question. Learned counsel for the petitioner has further argued that the petitioner is a young man aged 20 years with no criminal antecedents. 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 12.11.2024 in Court, which is taken on record.

**CRM-M-52421 of 2024** **4**

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

6. The petitioner was arrested on 05.04.2024 whereinafter investigation was carried out and challan stands presented on 14.05.2024. Total 11 prosecution witnesses have been cited and culmination of trial, but of course, will take its own time. The rival contention of learned counsel for the parties; as to the exact role of the petitioner in the FIR, material brought forward by the prosecution regarding the same as also the veracity of the TIP (Test Identification Parade) conducted qua the petitioner; 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 12.11.2024 filed by learned State counsel, the petitioner has suffered incarceration for a period of 07 months and 06 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 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

13.11.2024
P.Singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No