



CRM-M-52466 of 2024 **1**

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

217 **CRM-M-52466 of 2024**
DATE OF DECISION :- 13.11.2024

Nitish Singh @ Nitish Kumar Singh **...Petitioner**

Versus

State of Haryana **...Respondent**

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. Apoorva Arya, Advocate
for Mr. Jagmohan Ghumman, Advocate for the petitioner.

Ms. Priyanka Sadar, AAG, Haryana.

SUMEET GOEL, J. (Oral)

The instant petition has been filed on 15.10.2024 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. 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.307 dated 18.05.2023, registered for the offences punishable under Section 506 of IPC and Section 6 of POCSO Act



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 SHO Saheb Police Station Palam Vihar Gurugram, I am Geeta Nitish, resident of village Parsiya Rampur, Police Station Tandwa, District Aurangabad, Bihar and I live on rent in Carterpuri village. I work as a security guard in a private company and have four children. I am divorced from my first husband Akhilesh. I have a son and a daughter who live with my first husband. I have done my second marriage with Nitish Singh S/O Brijdev Singh, who belongs to Bihar. I have a 4-year-old daughter from Nitish and Khushi is from my first husband. Whose age is 14 years, today my daughter Khushi told me about the wrongdoings of my husband that on 15-5-2023 at 10 am when you were on duty, my step father Nitish forcibly made physical relations with me in his room and said that if you tell anyone then I will kill you, Father Nitish has been doing wrong things with me From last 3 years. All this was told to me by my daughter Khushi, today I have come to the police station with my daughter, action should be taken against my husband Nitish, I am giving this complaint in writing in front of lady advocate Rajbala Sharma. Sd -Geeta Devi 9971857665 18/05/23.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 18.05.2023. Learned counsel has further argued that a perusal of the statement made by the victim under Section 164 of Cr.P.C before the concerned Judicial Magistrate on 19.05.2023 would reflect that nothing inculpatory has come against the petitioner. Learned counsel for the petitioner has further argued that the victim as also the complainant (mother of the victim) have turned hostile and thus the trial is not likely to culminate into conviction. 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.

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

6. The petitioner was arrested on 18.05.2023 whereinafter investigation was carried out and challan stands presented on 14.08.2023. Total 18 prosecution witnesses have been cited out of which 03 have been examined. It is not in dispute that the material prosecution witnesses namely the victim and complainant (mother of the victim) stand examined. The rival contention of learned counsel for the parties; regarding the weightage required to be attached to the statement made by the victim under Section 164 of Cr.P.C on 19.05.2023 vis-a-vis the statement made by her as a prosecution witness as also the weightage required to be attached to the testimonies of the hostile witnesses namely the victim and mother of the victim/complainant; 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 already suffered incarceration for a period of 01 year 05 months and 24 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/Illaqha 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.



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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