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CRM-M-53986-2024 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-53986-2024 (O&M)

Date of Decision: 06.11.2024

SAMIT

.. Petitioner

Vs.

STATE OF HARYANA

..Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Sagar Dangi, Advocate for the petitioner.

Ms. Priyanka Sadar, AAG, Haryana.

...

SUMEET GOEL, J. (Oral)

1. The instant petition has been filed on 21.10.2024 under Section 439 of Cr.P.C., 1973 for grant of regular bail.

As per the judgment rendered by this Court titled '*Abhishek Jain Vs. State of U.T. Chandigarh and another*' (CRM-M-31808-2024) **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 Bharatiya Nagarik Suraksha Sanhita, 2023.

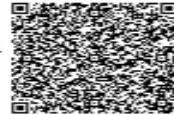
Present petition has been filed for grant of regular bail to the petitioner in case bearing FIR No.282 dated 10.08.2023, registered for the offences punishable under Sections 341/354/365/376(3)/376D/506/34 of IPC and Section 6 of POCSO Act (Section 17 of POCSO Act added later on) at Police Station Sadar, Rohtak.

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

“FIR No.282 dated 10.08,2023, under Sections 341/354/365/376(3)/ 376D/506/34 IPC and 6 POCSO Act, Police Station, Sadar, Rohtak To SHO Sir, Thana Sadar Rohtak, Sir, With due respect I am Jitendra S/O Ram Ratna R/o Khidwali. My daughter had left for school in the morning. She studies in 10th class in the village school. She was kidnapped while going to school at 7:30 in the morning. I came to know that my neighbor's boys were involved in the kidnapping from the village bus stand. I lodged a complaint on 112 number, about it. After that I told my younger brother Dharmendra that Shia has been kidnapped and asked my brother Dharmendra to come to Sadar Thana Rohtak. Then when I reached Sukhpura Chowk to come to Sadar Thana Rohtak, I saw that my daughter Shia, whose age is about 15 years, is standing at Sukhpura Chowk. I came to Sadar Thana Rohtak with her and after my brother Dharmendra came, we both asked Shia and she told us that she was going to school. The drivers blocked my way and forcibly made me sit in the car. Then they started misbehaving with me. I kept crying and shouting and then they said that if I made any noise they would kill me. Even then they did bad things with me one by one and then took me to a hotel. The rest were left outside. Sahil alias Chotu took me to the hotel and then did bad things with me there. Vicky and the drivers stood outside the hotel. I request you to take legal action against the culprits for forcefully abducting my minor daughter Shia and doing bad things with her.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 10.08.2023. Learned counsel for the petitioner has iterated that a perusal of the FIR, statement made by the victim under Section 164 of Cr.P.C. as also the challan put up by the police would indicate that the only role attributed to the petitioner is of providing the hotel room without due diligence/documentary work which led to commission of the offence in question. Learned counsel for the petitioner has further argued that the petitioner is required to take care of his family as he is a sole bread earner. Learned counsel for the petitioner has further

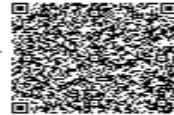
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argued that the petitioner is a person with clean antecedents. Thus, regular bail is prayed for.

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 10.08.2023 whereinafter investigation was carried out & challan was presented on 06.10.2023. Total 46 prosecution witnesses have been cited out of which only 5 have been examined till date. Indubitably, the conclusion of the trial will take its own time. The testimony of the victim stands recorded. The rival contention of the learned counsel for the parties; regarding the exact role attributable to the petitioner; the evidence having been collected against the petitioner; whether the petitioner had actively got involved in the commission of the offence; 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. As per the custody certificate dated 05.11.2024 filed by the learned State counsel, the petitioner has suffered incarceration for more than 01 year, 02 months and 22 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.

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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.
- (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/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



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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.

06.11.2024
Jasmine Kaur

(SUMEET GOEL)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No