

2024:PHHC:050911

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

228

CRM-M-56735-2023
Date of decision: 16.04.2024

PAPPU@ VIRENDER @ VEERENDRA RAIKWAR

....Petitioner

V/s

STATE OF HARYANA

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Anmol, Advocate,
for the petitioner.

Ms. Priyanka Sadar, AAG, Haryana.

Mr. Maan Akashdeep Singh, Advocate,
for the complainant.

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.927 dated 30.07.2022 registered for the offences punishable under Sections 376(2)(n) of IPC, 1860 and Section 6 of the Prevention of Children from Sexual Offences Act, 2012 at Police Station Sadar Hisar, District Hisar.

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

“Statement of Vinita daughter of Gianu, resident of near Mandir Pura Karondi Tedulkhera Damoh, Madhya Pradesh, at present Jhuggi near Mahendra Agency Bagla Road, aged 17 years, Mobile No.95 166544998. It is stated that I resident of the aforesaid address and I am ninth class pass. We are three brother-sister, my mother do labour work. I know Pappu resident of Madhya Pradesh for last one year because he is resident of our nearby village. About 8-9 months ago, in Navratras he had come at Hisar. He started meeting me. One day, when my mother

was not present at home, he made physical relations with me. After that till about April, 2022, my mother being absent from the house, he had come many times in our Jhuggi and he made physical relation with me. Then for last some days, I was having pain in my abdomen and I had come in Civil Hospital, Hisar for getting it checked, where I came to know that I am pregnant. I want to get legal action taken against Pappu. I have made my statement without any pressure and with my own free will. Statement has been got recorded, same has been read over and heard, which is correct. Signature Binita SD Rekha Mittal 30.07.22 ATTESTED SI NIRMALA 1436 PS SADAR HISAR DT. 30.07.2022."

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 07.06.2023. Learned counsel for the petitioner has further argued that the petitioner and the victim were having consensual friendship which was not to the liking of the family of the victim and hence the petitioner has been roped into a false FIR. Thus, regular bail is prayed for.

4. Learned counsel for the State has opposed the present petition by arguing that the allegations raised are serious in nature and, thus, the petitioner does not deserve the concession of 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 07.06.2023 whereinafter investigation was carried out & challan was presented on 19.07.2023. Total 17 prosecution witnesses have been cited and only 01 witness stands examined. Thus, culmination of the trial will take its own time. The rival contentions of the learned counsel for the parties; as to whether there was

consensual friendship between the petitioner and the victim which was not to the liking of the family of the victim and hence the petitioner has been falsely implicated in the FIR in question; 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 15.04.2024 filed by the learned State counsel, the petitioner has suffered incarceration for about 10 months and 08 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.

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 learned 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/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

April 16, 2024
poonam

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