

2024:PHHC:010291

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

215

CRM-M-57519-2023

Date of Decision: 25.01.2024

Amarjeet @ Happy

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR.JUSTICE SUMEET GOEL

Present:- Mr. Omkar Chauhan, Advocate,
for the petitioner.

Ms. Priyanka Sadar, AAG, Haryana.

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.50 dated 17.07.2023, registered for the offences punishable under Sections 341, 354-D, 506 IPC & Section 12 of the Protection of Children from Sexual Offences Act, 2012 at Police Station Women, District Kurukshetra.

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

“To The S.H.O. Sahab, Women Police Station Sector 8, Kurukshetra. Subject: Application for taking action as soon as possible against Amarjit Singh alias Happy Driver, Tek Chand Memorial School, Jyoti Nagar, Kurukshetra. Sir Ji, It is submitted that I, Jaswant Singh son of Shri Baljit Singh, am resident of village Beed Mathana, District Kurukshetra. My daughter Khushbu Saini, had been studying in Tek Chand Memorial School, Jyoti Nagar, Kurukshetra in 12th class in the

year 2022-23. In that school, driver Amarjit Singh alias Happy, having mobile No.99910- 06260 and 95883-18525 used to take our daughter Khushbu Saini from village to school and from School to Beed Mathana in the bus. He after alluring our daughter Khushbu Saini, by taking her under his control by luring with various kind of lures that I have 100 Killas land, Kothi, plot and a huge money. He has given phone and sim No.87081-69811 to our daughter, who has been recovered, from which both of them used to talk with each other. Our daughter Khushbu Saini is still minor, date of birth of whom is 08.09.2005, whereas Amarjit Singh alias Happy is married having children, who at present is about 35-40 years of age. On making inquiry by us, it was revealed that Amarjit Singh alias Happy for last about 1½ years, talks on phone with Khushbu Saini, who has captured Khushbu Saini under his control and our entire family has apprehension of life and liberty and honour at the hands of Amarjit Singh alias Happy, who fulfill his aim, at any time can commit any heinous crime and our entire family is under shock due to this incident. Copies of Adhar Card, birth certificate of Khushbu Saini are enclosed herewith. So, it is prayed to your goodself that before committing any heinous crime by aforesaid Amarjit Singh alias Happy, a strictest action may be taken against him and life and liberty as well as honour of our entire family may be protected. We shall be highly obliged. Dated 17.07.2023. Sd/-Jaswant Singh. Applicant Jaswant Singh son of Shri Baljit Singh, resident of village Beed Mathana, District Kurukshetra, Mobile No.98122-91664. Mother Promila Devi, Promila Devi. At Police Station- On receipt of the aforesaid application No.202-Dasti Dated 17.07.2023 of Jaswant Singh son of Shri Baljit Singh, resident of village Beed Mathana, District Kurukshetra, in the police station, from the contents of the application finding commission of offence under Section 12 POCSO Act, after registering FIR No.50 dated 17.07.23, under Section 12 POCSO Act in Women Police Station, Kurukshetra, investigation of the present case was conducted by S.I. Taro. During investigation in the present case, statement of victim girl under Section 161 Cr.P.C. was recorded in the Hon'ble Court.

Attested copy of the statement under Section 164 Cr.P.C. was obtained, which has been tagged with the file. Scaled site plan of the place of occurrence was prepared and the victim girl was kept in Bal Ashram, Sector 7, Kurukshetra. During investigation of the present case, complainant produced mobile phone given to the victim by the accused, which was taken into police possession as evidence vide memo. During investigation in the present case, Sections 341, 506 IPC were added. During investigation in the present case on dated 18.7.2023, after joining accused Amarjit alias Happy Ajit Singh, caste BC, resident of Narain Colony, near behind Simran Palace, Police Station Sadar, Thanesar, District Kurukshetra in the present case as per rules, he was interrogated. After collecting evidence of arrest, accused Amarjit alias Happy Ajit Singh, caste BC, resident of Narain Colony, near behind Simran Palace, Police Station Sadar, Thanesar was arrested. During investigation of the present case, search of the accused was conducted. Memo of search was prepared, on which the accused as well as witness put their respective signatures. Intimation of arrest was given to his heirs. During investigation in the present case, accused Amarjit with his own free will got disclosure statement recorded, on which accused as well as witness put their respective signatures. During investigation in the present case, the accused in view of his disclosure statement while going ahead, got the demarcation of the place of occurrence conducted. The accused as well as witness put their respective signatures on the memo. Statements of witnesses were recorded. The case property was handed over to the MHC of Women Police Station and after getting the general medical of the accused conducted, accused was lodged in the lockup of the Women Police Station. On 19.7.2023, after taking out the accused from the lockup of the police station, general medical of the accused was got conducted and his Covid medical was got conducted. Accused Amarjit alias Happy Ajit Singh, caste BC, resident of Narain Colony, near behind Simran Palace, Police Station Sadar, Thanesar, District Kurukshetra was produced before the court alongwith his judicial remand for 14 days and was got lodged in District Jail, Kurukshetra. During

investigation in the present case, on dated 3.8.2023, date of birth of the victim girl was got verified from the Municipal Committee, Thanesar. During investigation, date of birth 08.09.2005 of the victim girl was found to be correct. During investigation in the present case, for getting concerned call detail, an application was given in Cyber Cell, Kurukshetra and call detail of concerned mobile Nos.9588318525, 8708169811, 9991006260 and 65B certificate and ID Kaif were received. During investigation in the case on dated 9.8.2023, scaled site plan of the place of occurrence was got prepared from the Draftsman. Statements of the witnesses were recorded. During investigation in the present case, Section 354D IPC was added. In the present case, evidence of challan against accused Amarjit alias Happy Ajit Singh caste BC, resident of Narain Colony, near behind Simran Palace, Police Station Thanesar, District Kurukshetra have been collected. After preparing challan of the accused, same is being submitted before the Hon'ble Court. After summoning the witnesses, trial may be conducted.

*Sd/- Station House Officer, Women Police Station, Kurukshetra
Dated 17.8.2023”*

3. Learned counsel for the petitioner has argued that after the arrest of the petitioner on 19.07.2023, investigation was carried out & challan was presented. Learned counsel has further argued that trial is underway & prosecutrix already stands examined. Learned counsel has also raised further contention that it is a case of friendly relationship between the petitioner & the victim which was misunderstood by the victim & her family members. Thus, learned counsel has prayed for grant of regular bail to the petitioner.

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 accused was arrested on 19.07.2023 & as per the custody certificate dated 24.01.2024, the petitioner has suffered incarceration for more than 6 months & is not shown to be involved in any other case. After completion of investigation, challan has already been presented on 29.08.2023. The rival contentions of the learned counsel for the parties regarding the misunderstanding of friendly relations at the instance of the victim as also her family members will be gone into during the course of trial. This Court does not deem it appropriate to delve deep into the allegations lest it may prejudice the rights of either parties, at this stage. No tangible material has been brought before this Court to indicate likelihood of the petitioner absconding from the process of justice or interfering with the prosecution evidence. Hence, in considered opinion of this Court, further detention of the petitioner is not warranted.

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/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

January 25, 2024
poonam

<i>Whether speaking/reasoned:</i>	<i>Yes/No</i>
<i>Whether Reportable:</i>	<i>Yes/No</i>