

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

CRM-M-58894 of 2023

DATE OF DECISION :- 29.01.2024

Jaj Ram

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. Bhagat Singh Ghuman, 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. 284 dated 23.07.2021, registered for the offences punishable under Sections 363,366-A IPC (Sections 306,328,376 IPC and Section 4 of The Protection of Children from Sexual Offence Act, 2012 added later on) at Police Station Rania, District Sirsa.

2. Counsel for the petitioner submits that the petitioner is in custody since 29.07.2021 wherein after investigation was carried and challan has been presented. Learned counsel for the petitioner further submits that the case in hand is actually one of a consensual relationship between the petitioner & the deceased; the unfortunate incident had occurred on account

of fall out of such relationship & the trial is not progressing. Thus concession of regular bail is prayed for.

3. Counsel for the State opposed the present petition arguing that the allegations raised are serious in nature and thus the petitioner does not deserve the concession of regular bail.

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

5. This is the 2nd petition for grant of regular bail. The first one was dismissed as withdrawn on 14.02.2023. Thereafter, vide order dated 04.01.2024 passed in present petition, a report was sought from the learned trial Court regarding the progress of the trial.

6. The petitioner is a young man aged about 22 years. Vide order dated 04.01.2024 passed by a coordinate Bench of this Court, a report was sought from by the trial Court regarding the recording of witnesses during the course of trial. The concerned trial Court has send report dated 19.01.2024 to this Court, relevant whereof reads as under :-

“It is respectfully submitted that in the case titled as State of Haryana Versus Jaj Ram bearing FIR No. 284 under Section 4 of the POCSO Act, 2012 and Sections 306, 328, 363, 366-A, 376 IPC, Police Station, Rania, the accused was charge-sheeted on 13.01.2022 by Shri Anil Kumar, the then Additional Sessions Judge, Fast Track Special Court, Sirsa and the case was adjourned to 27.04.2022 for evidence of prosecution. On that day, no witness of prosecution was present. An application for exemption for personal appearance of the witness/victim was filed which was allowed and the case was adjourned to 16.08.2022 for evidence of the prosecution. On that day. the case file was first time dealt with by the undersigned and the examination- in-chief of the complainant Malkeet Ram as PW1

was recorded and on the same day, an application under Section 319 Cr.P.C. was filed on behalf of the complainant/prosecution which was dismissed by the undersigned on 02.03.2023 and the case was adjourned to 25.05.2023 for cross-examination of PW1 Malkeet Ram and he along with witnesses Puran Ram, Jagir Ram and Mahendro Bai were ordered to be summoned for the date fixed. On that day, four witnesses of the prosecution namely Malkeet Ram, Mahendro Bai, Puran Ram and Jagsir Ram were present but could not be examined on the request of learned counsel for the complainant as well as learned counsel for accused and the case was adjourned to 20.09.2023 for evidence of prosecution and the witnesses present on that day were bound down for the date fixed. On 20.09.2023, no witness of prosecution was present and the case was adjourned to 20.12.2023 for evidence of prosecution and all the above named four witnesses were ordered to be summoned for the date fixed. On 20.12.2023, one witness of prosecution namely Mahendro Bai was present and her examination-in-chief as PW2 was recorded but her cross-examination had been deferred on the request of learned proxy counsel for the accused. The witnesses Mahendro Bai, Malkeet Ram, Jagsir Ram and Puran Ram present on that day were discharged and the case was adjourned to 02.04.2024 for evidence of prosecution and all the above named four witnesses were ordered to be summoned for the date fixed. It is necessary to mention here that the advocates at Sirsa have been on strike since 02.12.2023 continuously.”

7. The above said reflects that the trial is not proceeding at the desired pace. There are 28 prosecution witnesses cited in the challan & hence culmination of trial will take its own time. The rival contentions made by learned counsel for the parties regarding the petitioner and the deceased being in consensual relationship and the incident having occurred on account of fall out of such relationship shall be gone into during the course of trial.

This Court does not deem it appropriate to delve into these rival contentions at this stage. As per the custody certificate, the accused is in custody since 29.07.2021 and he has undergone incarceration for more than 2 years 5 months & is not shown to be involved in any other case.

8. 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 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.

9. 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.

10. Ordered accordingly.
11. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.
12. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(SUMEET GOEL)
JUDGE

29.01.2024
P.Singh

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No