

CRM-M-55858 of 2024

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

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CRM-M-55858 of 2024

DATE OF DECISION :- 14.11.2024

Banti @ Bnaty**...Petitioner****Versus****State of Haryana****...Respondent****CORAM: HON'BLE MR. JUSTICE SUMEET GOEL****Present:-** Mr. Divyam Singh, Advocate for the petitioner.

Ms. Priyanka Sadar, AAG, Haryana.

SUMEET GOEL, J. (Oral)

1. Present petition has been filed under Section 483 of BNSS, 2023 for grant of regular bail to the petitioner in case bearing FIR No.0158 dated 23.03.2024, registered for the offences punishable under Sections 363, 366 of IPC at Police Station Old Industrial Panipat, Panipat.

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

“To SHO P.S.S Old Industrial Panipat, Sir, It is stated that I am Nannu son of Raghbir Dayal resident of Adarsh Nagar Panipat. That I have 4 children out of which 2 are sons and 2 are daughters. That my youngest daughter age is 15 years and on dated 22.03.2024 at around 1 she went from the house without telling, I also searched for her but she was found nowhere. That she is of fair complexion, having round face and strong body and is having Mata's mark on face and is wearing green colour



suit salwar. That appropriate action be taken for searching my girl. Thanks. Applicant Nannu. Mobile No. 8059446024.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 31.03.2024. Learned counsel for the petitioner has further submitted that 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 into the FIR in question. Learned counsel for the petitioner has further referred, in extenso, to the statement made by the victim under Section 164 of Cr.P.C on 27.03.2024 to argue that that nothing inculpatory was said against the petitioner in the said statement of the victim. Learned counsel for the petitioner has further argued that the victim as also the complainant are repeatedly not coming forward to have their testimonies recorded and vide order dated 05.11.2024, the trial Court has been constrained to issue bailable warrants against them. Learned counsel for the petitioner has further argued that petitioner is a young man aged 23 years with no criminal antecedents. 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 13.11.2024 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 31.03.2024. whereinafter investigation was carried out and challan stands presented on 29.5.2024.



Total 10 prosecution witnesses have been cited out of which only 04 have been examined till date. The rival contention of learned counsel for the parties; as to whether there was consensual friendship between the petitioner and the victim, whether the petitioner has been falsely implicated into the FIR in question as also the weightage required to be attached to the statement made by the victim under Section 164 of Cr.P.C; 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.

A perusal of the orders dated 03.10.2024 as also 05.11.2024 passed by the learned trial Court reflect that complainant and victim are not repeatedly coming forward to have their testimonies recorded as prosecution witnesses.

At this juncture, it would be apposite to refer herein to a judgment passed by the Hon'ble Supreme Court in a case of '***Javed Gulam Nabi Shaikh Vs. State of Maharashtra and another***' decided in ***Criminal Appeal No.2787 of 2024 arising out of SLP (Crl) No.3809 of 2024***', relevant whereof reads as under:-

"19. If the State or any prosecuting agency including the court concerned has no wherewithal to provide or protect the fundamental right of an accused to have a speedy trial as enshrined under Article 21 of the Constitution then the State or any other prosecuting agency should not oppose the plea for bail on the ground that the crime committed is serious. Article 21 of the Constitution applies irrespective of the nature of the



crime.

20. We may hasten to add that the petitioner is still an accused; not a convict. The over-arching postulate of criminal jurisprudence that an accused is presumed to be innocent until proven guilty cannot be brushed aside lightly. howsoever stringent the penal law may be.

21. We are convinced that the manner in which the prosecuting agency as well as the Court have proceeded, the right of the accused to have a speedy trial could be said to have been infringed thereby violating Article 21 of the Constitution.”

As per custody certificate dated 13.11.2024 filed by learned State counsel, the petitioner has suffered incarceration for a period of more than 07 months and 13 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

(vii) The petitioner shall not in any manner try to delay the trial.

11. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

P. Singh

Yes/No