



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

210

CRM-M No.56232 of 2024
Date of decision : 18.11.2024

Vajid @ Wazid AliPetitioner

Versus

State of HaryanaRespondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Devender S. Punia, Advocate, for the petitioner

Ms. Priyanka Sadar, AAG, Haryana

SUMEET GOEL, J. (ORAL)

1. Present petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita of 2023 (for short 'BNSS') for grant of regular bail to the petitioner in case FIR No.94 dated 25.7.2024, under Sections 4, 8, 17 of the POCSO Act and Sections 3(5), 54, 74, 75(2), 65(1), 137 (2) and 241 of the Bharatiya Nyaya Sanhita of 2023, registered at Police Station Bapoli, District 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 the SHO Police Station Bapoli, District Panipat, Sir it is submitted that I am resident of xxxxx and during the labour work, I have four children, out of which three are daughters and one is son. Age of my daughter is 15½ years, studying at xxxxxxxx. Today my daughter left for school at 8.00 am and returned from school at 1.00 pm in noon. My daughter narrated entire incident to my wife that Manish s/o Balbir,



resident of Khojkipur Kalan met her in the say and asked her to meet hi at about 10.030 am outside the school as he had to disclose something about her mother, On asking of Manish my daughter came out of school, enticed her and then boarded her on his motorcycle and took her in Guest House at Samalkha. Two boys namely Sunil s/o Satbir and Sumit s/o Krishhan met them at Guest House R.S.Residency Bhapra Chowk, Samlakha. Manish hired a room in the guest house and in the guest house Sunil and Sumit had outraged her modesty and Manish committed rape upon her daughter. Sunil and Sumit had helped Manish for committing rape with her. Thereafter, Manish had left her daughter outside the village. Legal action be taken against all of them. Sd/- Satish applicant.'

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 6.8.2024. Learned counsel has iterated that, *assuming arguendo*, the case set up in the challan is taken to be correct, even then the prime role attributed to the petitioner is that of providing room to the main accused without proper documentation. Learned counsel for the petitioner has further submitted that the petitioner has been falsely implication into the FIR in question and no allegation of sexual assault has been made against him. Learned counsel has further submitted that total 28 prosecution witnesses have been cited and culmination of the trial will take long time. Thus, regular bail is prayed for.

4. Learned State counsel 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 the regular bail. Learned State counsel seeks to place on record custody certificate dated 14.11.2024 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 6.8.2024 whereinafter investigation was carried out and challan was presented on 21.9.2024. Total 28 prosecution witnesses have been cited and culmination of trial will, of course, take its own time. The rival contention of learned counsel for the parties; as to whether the petitioner has been falsely implicated into the FIR in question as also the exact role of the petitioner in the commission of the alleged 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 prosecution evidence. As per custody certificate dated 14.11.2024 filed by learned State counsel, the petitioner has already suffered incarceration for a period of three months and eight 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 Station and shall not change his cell-phone number without prior permission of the trial Court/Illaqa 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.

(SUMEET GOEL)
JUDGE

18.11.2024
Ashwani

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