



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

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**CRM-M No.56167 of 2024
Date of decision : 18.11.2024**

Sandeep Singh @ Sandeep Kumar**Petitioner**
Versus
State of Haryana**Respondent**

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Rajat Mor, 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.219 dated 26.6.2024, under Sections 354, 354-A, 354-D and 506 of the IPC and Sections 8 and 12 of the POCSO Act, 2012, registered at Police Station Cheeka, District Kaithal.
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 Station House Officer, P.S. Cheeka. Sir, it is requested that I Lovepreet Kaur D/o Kuldeep Singh R/o Bhusla Road, Dera Bhagal, P.S. Cheeka, District Kaithal and I am learning work of beauty parlor at Muskan Beauty Salon at Cheeka. My date of birth is 28.01.2007 and I have studied upto 12th class. I used to commute from Cheeka to my Village Bhagal by bus. A boy used to harass me in that bus and followed me. About 20 days back also inquired from me about my name and mobile number etc. That boy by taking advantage of rush in the bus, harassed me



by touching my private parts on which I reprimanded him, but he continued to harass and follow me. One day, one passenger of bus disclosed the name of that boy as Sandeep S/o Sujaan Singh, R/o Bhagal. Regarding the same, I disclosed all the facts to my father. Due to fear of insult in the society, till date we have not made any complaint to the police. Today on 26.06.2024 at about 08:30 am, I alongwith my father Kuldeep Singh reached on bus stand Bhagal to board the bus for Cheeka. Accused came and stood near to me and started teasing me. On this, I and my father tried to stop him and catch him, but he fled away from the spot after extending threat not to disclose the matter to police. Today, I came with my father and represented the complaint to you. It is prayed that strict legal action be taken against above Sandeep. Sd/- ‘

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 26.6.2024. Learned counsel has further argued that the prime prosecution witnesses namely, the victim and the complainant/father of the victim stand examined and thus, there is no chance that the petitioner may interfere with the substantial/important prosecution evidence. Learned counsel for the petitioner has further submitted that the offences for which the petitioner has been arraigned as an accused entail maximum sentence of three years and he has already suffered incarceration of more than four months. Learned counsel for the petitioner has further argued that the petitioner is a man with clean antecedents. Learned counsel has further argued that the petitioner has been falsely implicated into the FIR in question. Learned counsel has further submitted that no proper TIP (Test Identification Parade) was conducted. 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 15.11.2024 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 26.6.2024 whereinafter investigation was carried out and challan stands presented on 17.7.2024. Total 11 prosecution witnesses have been cited, out of which only 2 i.e. victim as also the father of the victim stand examined. The rival contention of learned counsel for the parties; as to whether the petitioner has been falsely implicated into the FIR in question, whether proper TIP (Test Identification Parade) was required and actually got conducted or not as also effect thereof; 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 15.11.2024 filed by learned State counsel, the petitioner has already suffered incarceration for a period of four months and nineteen days & is not shown to be involved in any other case.

The petition in hand is, indubitably, the second bail petition preferred by the petitioner. The first bail petition was withdrawn on 16.9.2024 as the victim was yet to be examined as a prosecution witness



at that time. The victim as also the complainant (father of the victim) stand examined since then. It would be apposite to refer herein a judgment of this Court in **Rafiq Khan v. State of Haryana and another, CRA No.2332 of 2023** decided on 22.2.2024, relevant whereof reads as under:

‘10. As an epilogue to the above discussion, the following principles emerge:

I. Second/successive regular bail petition(s) filed is maintainable in law & hence such petition ought not to be rejected solely on the ground of maintainability thereof.

II. Such second/successive regular bail petition(s) is maintainable whether earlier petition was dismissed as withdrawn/dismissed as not pressed/dismissed for non-prosecution or earlier petition was dismissed on merits.

III. For the second/successive regular bail petition(s) to succeed, the petitioner/applicant shall be essentially/pertinently required to show substantial change in circumstances and showing of a mere superficial or ostensible change would not suffice. The metaphoric expression of seeking second/successive bail plea(s) ought not be abstracted into literal iterations of petition(s) without substantial, effective and consequential change in circumstances.

IV. No exhaustive guidelines can possibly be laid down as to what would constitute substantial change in circumstances as every case has its own unique facts/circumstance. Making such an attempt is nothing but an utopian endeavour. Ergo, this issue is best left to the judicial wisdom and discretion of the Court dealing with such second/successive regular bail petition(s).

V. In case a Court chooses to grant second/successive regular bail petition(s), cogent and lucid reasons are pertinently required to be recorded for granting such plea despite such a plea being second/successive petition(s). In other words, the cause for a Court having successfully countenanced/entertained such second/successive petition(s) ought to be readily and clearly decipherable from the said order passed.’

Keeping in view the entirety of the facts and circumstances of

the case, especially the factum of the victim and complainant (father of



the victim) having been recorded as prosecution witnesses & the petitioner (herein) having suffered incarceration for about two more months, this Court is inclined to favourably consider the instant (second) regular bail petition.

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/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.

(SUMEET GOEL)
JUDGE

18.11.2024
Ashwani

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