

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

**CRM-M-61554 of 2023
DATE OF DECISION :- 30.01.2024**

Shakti **...Petitioner**

Versus

State of Haryana **...Respondent**

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. Parminder Singh, Advocate for the petitioner.

Ms. Ankita Ahuja, AAG, Haryana.

Mr. Kamil Nagpal, Advocate
with Mr. Bhanu Partap, Advocate for the complainant.

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. 173 dated 01.05.2022, registered for the offences punishable under Sections 363,366,376(3),506 IPC and Section 4 of POCSO Act, 2012 at Police Station Kunjpura, District Karnal.

2. Counsel for the petitioner submits that the petitioner was arrested on 05.08.2023 wherein after investigation was carried out and challan stands presented. Learned counsel for the petitioner, with vehemence, argued that the first statement under Section 164 Cr.P.C. of the

victim was recorded on 03.05.2022 wherein no allegation of assault was made against the present petitioner namely Shakti and it is subsequently on 25.01.2023 that a supplementary statement under Section 164 Cr.P.C was made by the victim involving the petitioner into the FIR in question. Learned counsel for the petitioner has also argued that the victim refused to undergo medical examination initially on 04.05.2022. Even in her statement before the CWC on 14.05.2022 it was categorically stated by the victim that the father of the victim is pressurising her to make statement involving the accused. Thus, regular bail is prayed for.

3. Counsel for the State as also learned counsel for the complainant have 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. The accused is in custody since 05.08.2023. The Challan stands presented wherein total 16 prosecution witnesses have been cited. As per the custody certificate dated 24.01.2024 filed by the learned State counsel, the petitioner has already suffered incarceration for more than 5 months & the petitioner is not shown to be involved in any other case. The rival contentions of the parties regarding the issue(s) of their being about more than 7 months gap in the two statements recorded under Section 164 Cr.P.C as also the victim initially refusing to undergo medical examination on 04.05.2022 shall be gone into during the trial. This Court does not deem it appropriate to delve into these rival contentions at this stage lest it may prejudice the case of either parties. No tangible material has been brought on

record to show that there is likelihood of the petitioner absconding from the process of justice or interfering with the prosecution evidence. In the considered opinion of this Court, further detention of the petitioner as an under trial is not warranted.

6. 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.

7. 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.

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

(SUMEET GOEL)
JUDGE

30.01.2024

P. Singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No