

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

216

CRM-M-61016-2023

Date of decision:10.01.2024

Rafi

....Petitioner

V/s

State of Punjab and another

....Respondent

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Naveen Batra, Advocate for the petitioner.
Mr. Anup Singh AAG Punjab.

SUMEET GOEL, J.

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.187 dated 08.11.2022, registered for the offences punishable under Sections 363, 366-A and 364 IPC at Police Station Bullowal, District Hoshiarpur.

2. The case set up in the FIR in question is as follows:-

"Statement of Saif Ali Shah son of Nuran Shah, R/o village Pandori Mile, P.S. Bullowal, District Hoshiarpur, age about 37 years M. No. 77400-11956, stated that I am resident of aforementioned address and I belongs to Gujjar Community and is indulged in the business of seiling milk and is surviving my family. I have four children, two daughters and two son. My daughter Sabnam is studying in 10th standard and younger to her is daughter Muskan who is deaf and dumb by birth and younger to her is my son Sahil who is 10 years old and he is studying in 3rd standard in primary school, Village Dhariwal. My elder daughter Soniya, her date of birth is 12.03.2006 and she has completed her 10th standard from Government High School, village Kotla Nodh singh. On 02.11.2022 I along with my wife Akhtar went to fields in morning for the purpose of bringing cattle fodder for cattle, then my daughter Soniya, younger son Muskan and younger son Sahil were at home. My daughter Sabnam who went to school, at about 3:00 PM I along with my wife Akhtar come back to home, then my younger son Sahil has disclosed that at about 11:30 AM

Rafi son of Makhan Deen R/o Haryana, District Hoshiarpur, comes to our home and by made to seat on his motorcycle Mark CT 100 to my daughter Soniya age about 16 years, he had taken her away somewhere. Rafi son of Makhan Deen is already known to me and my family members. Apart from this, my daughter Soniya has not taken away any gold or cash along with her. Till date I keep on searching my daughter Soniya at my level from the family of Rafi, but my daughter Soniya nowhere found me. My minor daughter Soniya has been taken away by Rafi son of Makhan Deen R/o Haryana, District Hoshiarpur by alluring her on the pretext of marriage. Now I also came into notice that after eloping of my daughter Soniya along with Rafi son of Makhan Deen, shelter given to them by Akash Mehra son of Joginder Pal R/o Village Ram Wal, Police Station Deena Nagar, District Gurdaspur. Therefore please search my minor daughter and legal action be taken against Rafi son of Makhan Deen R/o Haryana, District Hoshiarpur and Akash Mehra son of Joginder Pal, R/o village Ramwal, Police Station Deena Nagar, Gurdaspur."

3. Learned counsel for the petitioner contends that petitioner is in custody since 22.08.2023; challan has been presented on 10.11.2023 wherein totally 15 prosecution witnesses have been cited; co-accused has been granted the concession of bail by this Court, vide order dated 14.02.2023, Annexure P-3. He further argues that on the ground of parity alone, petitioner is entitled to be released on bail during the pendency of trial.

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.

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

6. Investigation is stated to be over and trial has commenced; co-accused namely Akash Mehra has already been extended the benefit of regular bail by coordinate Bench of this Court. As per the custody certificate dated 09.01.2024 submitted by the learned State counsel, the

CRM-M-61016-2023

3

petitioner has undergone incarceration for more than 04 months and is not involved in any other case. No tangible material has been brought before this Court to indicate likelihood of the petitioner absconding from the process of justice or interfering with the prosecution evidence. Hence, in my considered opinion of this Court, further detention of the petitioner is not warranted.

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 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.

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

CRM-M-61016-2023

4

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

(SUMEET GOEL)
JUDGE

January 10, 2024
Ajay

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