

**CRM-M-57022 of 2024** **1****IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****217****CRM-M-57022 of 2024****DATE OF DECISION :- 21.11.2024****Gurpal Singh****...Petitioner****Versus****State of Punjab****...Respondent****CORAM: HON'BLE MR. JUSTICE SUMEET GOEL****Present:-** Mr. Navjot Singh, Advocate for the petitioner.

Mr. Anup Singh, AAG, Punjab.

*********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.96 dated 07.08.2024, registered for the offences punishable under Sections 96, 137(2) and 61(2) of BNS, 2023 at Police Station Khilchian, District Amritsar.

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

“Statement of Surjit Singh s/o Swaran Singh residence of dakoha, PS Ghuman, age 36 years, Mob. No. 79018-84993 stated that I am resident of the above mentioned address. I am a laborer, having three daughter and two sons, my second eldest daughter namely Palakpreet kaur aged 15 years, who has studied 9th Class from Government School. Dakoha, on 11.06.2024, she went to the salon of Dilbagh Singh, son of Pratap Singh, who resides in Chhajalwadi, to learn salon work and also resides at Dilbagh Singh's house. On 28-7-24, the time was around 1:45 AM,



Dilbagh Singh called that Palakpreet Kaur was not at home. I went to the house of Dilbag Singh and we both searched a lot for Palakpreet Kaur, but we have not found her. I and Dilbagh Singh are very sure that my daughter Palakpreet Kaur was enticed by Jagtar Singh alias Dare son of Late Ajit Singh resident of Sherobaga police station Beas in the pretext of marriage, on incitement of Gurpal Singh son of Ajit Singh, resident of Bharath Police Station, Sri Hargobindpur, District Gurdaspur, a strict action be taken against the above said accused and requested the police to locate my daughter, Palakpreet Kaur. Heard and Confirmed: Surjit Singh signed and left his statement. SD/ Dalbag Singh confirmed the statement. Satnam Singh, ASI, Thana Khalchia, Date: 07-08-2024. Action Taken: Today, ASI Sukhwinder Singh (Badge 1233), PHG Buta Singh (Badge 3376), and other personnel, including a private vehicle with laptop and printer accessories, patrolled the area. Statements from Surjit Singh and Dilbagh Singh were recorded and verified. The statement was read to Mr. Dilbagh Singh, who confirmed its accuracy. The case has been registered under sections 96, 137(2), and 61(2) BNS. PHG Buta Singh (Badge 3376) has been sent to the police station to register the statement. After registration, the case number will be provided, and a special report will be issued to the District Magistrate. The team, including the plaintiff, proceeded to Moka Jai Vakua. The current status is at Raqba Adda Khalchia, time 08:30 PM. Corrected by: Satnam Singh, ASI, Police Station Khalchia, Date: 07-08-2024. Police Station Report: The statement has been registered under the specified crime. The original statement and FIR copy are available. Special reports are being sent to the District Magistrate and other officials. The control room has been notified via wireless. Takmeel Report No. 32 was issued at 9:10 PM.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 07.08.2024. Learned counsel has further argued that the prime role attributed to the petitioner in the police investigation/challan is that he has



helped the main accused namely Jagtar Singh to entice away the victim in question. Learned counsel for the petitioner has submitted that petitioner is a young man aged 22 years with no criminal antecedents. Learned counsel for the petitioner has further submitted that there are no chances that the petitioner may interfere with the trial or influence the prosecution witnesses, if released on bail. Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated into the FIR in question as the daughter of the complainant has been enticed away by the co-accused and the complainant-side is under a misconstrued impression that the petitioner is a friend of the said accused. 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 20.11.2024 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 07.08.2024 whereinafter investigation was carried out and challan stands presented on 30.09.2024. Total 10 prosecution witnesses have been cited and culmination of trial, but of course, will 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, the exact role of the petitioner qua the offence (in question) as also the materials brought forward by the police during the course of investigation; shall be gone into during the course of trial. The petitioner is a young man aged

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22 years. Indubitably, the petition in hand is the second regular bail petition preferred on behalf of the petitioner. The first bail petition preferred on behalf of the petitioner was dismissed as withdrawn on 17.09.2024 as the investigation was still underway at that point of time.

It would be apposite to refer herein to a judgment passed by this Court in the case of ***'Rafiq Khan Vs. State of Haryana and another'*** ***CRA-S-2332 of 2023 decided on 22.04.2024***, relevant whereof reads as under:-

"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.”

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 20.11.2024 filed by learned State counsel, the petitioner has suffered incarceration for a period of about 03 months and 11 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. Keeping in view of entirety of facts and circumstances of the case, especially the factum of first petition having been withdrawn on 17.09.2024 as the investigation was still underway and further incarceration approximately 02 more months suffered by the petitioner, this Court is inclined to favourably consider the instant bail petition preferred by the petitioner. Therefore, 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.



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

(SUMEET GOEL)
JUDGE

21.11.2024
P.Singh

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No