



CRM-M-56827 of 2024 **1**

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

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DATE OF DECISION :- 20.11.2024

Mithilesh @ Kapil **...Petitioner**

Versus

State of Haryana **...Respondent**

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. Rajesh Bansal, Advocate for the petitioner.

Ms. Priyanka Sadar, AAG, Haryana.

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.0178 dated 10.06.2024, registered for the offences punishable under Sections 363, 366-A of IPC at Police Station Sector-13/17, Panipat, 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:-

“Copy of application is attached. To, SHO, Police Station Sector 13/17, Panipat. Sir, It is submitted that I Archana Pathak wife of Shashi Mishra is residing at house No. 515 Sector 6, HUDA Housing Board Colony on rent. I have two children. I am divorcee. My daughter Megha Mishra daughter of Shashi Mishra resident of House No. 575, Sector 6, HUDA, Housing Board Colony House No. 515 F aged 17 years today on dated 10.06.2024 at about 1 pm in the noon went away from the home. Till now I have searched my daughter Megha Mishra, she has not found. I have suspicion that Kapil son of Suresh resident of Hari Nagar Near Ram Sawroop Chowk, Panipat taken away my daughter Megha Mishra. My



daughter may be searched and legal action may be taken against the accused. Description: colour wheatish, round face, slim body, height 5.1 inch, wearing suit pant of purple colour. Complainant Archana Pathak. Sd/- Archana Pathak, Mobile No. 9812021987, Tushar Mishra 9350247696, Indu Pathak 9817221894.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 18.06.2024. Learned counsel has submitted that there was consensual friendship between the petitioner and the victim which was not to the liking of the family of the victim and hence the petitioner has been falsely implicated into the FIR in question. Learned counsel for the petitioner has referred, in extenso, to the statement made by the victim on 18.06.2024 before the Judicial Magistrate under Section 164 of Cr.P.C to argue that nothing inculpatory has come against the petitioner in the said statement. Learned counsel for the petitioner has further submitted that the petitioner is a young man aged 18 years. 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 19.11.2024 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 18.06.2024 whereinafter investigation was carried out and challan stands presented on 09.07.2024. Total 08 prosecution witnesses have been cited but only two have been examined till date. Indubitably, the conclusion of the trial will take its own



time. The rival contention of learned counsel for the parties; as to whether there was consensual friendship between the petitioner and the victim which was not to the liking of the family of the victim, whether the petitioner has been falsely implicated into the FIR in question & the weightage required to be attached to the statement made by the victim on 18.06.2024 under Section 164 of Cr.P.C before the concerned Judicial Magistrate vis-a-vis the statement of her likely to be recorded as a prosecution witness; 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 19.11.2024 filed by learned State counsel, the petitioner has suffered incarceration for a period of more than 05 months. As per the said custody certificate, the petitioner is said to be involved in other FIR(s) also. Indubitably, the antecedents of a person are required to be accounted for while considering a regular bail petition preferred by him. However, this factum cannot be a ground sufficient by itself, to decline the concession of regular bail to the petitioner in the FIR in question when a case is made out for grant of regular bail *qua* the FIR in question by ratiocinating upon the facts/circumstances of the said FIR. Reliance in this regard can be placed upon the judgment of the Hon'ble Supreme Court in *Maulana Mohd. Amir Rashadi vs. State of U.P. and another, 2012(1) R.C.R. (Criminal) 586*; a Division Bench judgment of the Hon'ble Calcutta High Court in case of *Sridhar Das vs. State, 1998(2) R.C.R. (Criminal) 477* & judgments of this Court in *CRM-M-38822-2021*



titled as *Akhilesh Singh vs. State of Haryana*, decided on 29.11.2021 and *Balraj vs. State of Haryana, 1998(3) R.C.R. (Criminal) 191*.

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.



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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

20.11.2024
P.Singh

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