



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

214

CRM-M No.57691 of 2024
Date of decision : 25.11.2024

Zakir @ JakirPetitioner
Versus
State of HaryanaRespondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Munfaid Khan, Advocate, for the petitioner
Ms. Ankita Ahuja, AAG Haryana

SUMEET GOEL, J. (ORAL)

1. Present petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') for grant of regular bail to the petitioner in case FIR No.411 dated 5.5.2024, under Sections 365, 343, 506 of the IPC and Section 4 of POCSO Act, 2012, registered at Police Station Sector 58, District Faridabad.
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 Incharge of Police Post Seekri, Faridabad. Sir, it is prayed that I, Abdul Rajjak son of Mangal Khan r/o village Khandawli, Faridabad. My granddaughter having the age of 16 years (DOB 30.07.2008) d/o Salim is pursuing 12th class from DPS School Village Kaili, Faridabad. We used to drop and pick her from her school on a bike. On 04.05.2024 at about 9.00 in morning, the applicant's grandson namely Faisal son of Ikramudin went to drop my granddaughter in DPS School. Thereafter at about 11 AM, the school teacher had informed telephonically at home that today,



your daughter has not come to school. We have suspicion that Jakir son of Istak r/o Tauru Anaaj Mandi, who is in our relation and has visiting terms at our house, has enticed away my minor granddaughter with bad intention. The description of my granddaughter is that color-brown, round face, 5ft hight, healthy body and she was wearing DPS School uniform i.e. white shirt, Dark Blue paint and black shoes. You are requested that my grand daughter may kindly be search and the legal action against this boy may kindly be taken. SD/- Applicant namely Abdul Rajjak, mobile no. 9899543569.'

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 28.5.2024. Learned counsel has further argued that there was consensual friendship between the petitioner and the victim which was not to the liking of the family of the victim. Hence, the petitioner has been falsely implicated in the FIR in question. In order to buttress his arguments regarding the existence of a consensual friendship between the petitioner and the victim, learned counsel for the petitioner has relied upon photograph (copy whereof has been appended as Annexure P-2 with the instant petition) as also whats-app chat (copy whereof has been appended as Annexure P-3 with the instant petition). Learned counsel for the petitioner has further argued that, in the statement made by the victim under Section 164 of Cr.P.C. before the Chief Judicial Magistrate on 10.5.2024, nothing inculpatory has come against the petitioner qua sexual assault. However, later on, due to familial pressure, the victim has made allegations against the petitioner when her statement was recorded by the police before the Counselling Centre. Learned counsel has further submitted that the petitioner is a young man aged 19 years with no criminal antecedents. 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 23.11.2024 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 28.5.2024 whereinafter investigation was carried out and challan stands presented on 12.8.2024. Total 31 prosecution witnesses have been cited and the culmination of trial will take its own time as the charges have not yet been framed. The rival contention of learned counsel for the parties; as to whether there was consensual friendship between the petitioner and the victim, whether the FIR in question is a result of such friendship not being to the liking of the family of the victim as also the weightage required to be attached to the statement made by the victim under Section 164 of Cr.P.C. viz-a-viz the statements by her before the Counselling Centre by the police as also the statement made by her during the course of trial 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 23.11.2024 filed by learned State counsel, the petitioner



has already suffered incarceration for a period of five months and twenty-six 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. 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/Illaqa 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

25.11.2024
Ashwani

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