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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-58026-2024 (O&M)

Date of Decision: 11.12.2024

SUMIT KUMAR

.. Petitioner

Vs.

STATE OF HARYANA & ORS

..Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Ms. Tamanna Banwala, Advocate for the petitioner.

Ms. Priyanka Sadar, AAG, Haryana.

...

SUMEET GOEL, J. (Oral)

1. Present petition has been filed under Section 483 BNSS, 2023 for grant of regular bail to the petitioner in case bearing FIR No.0094 dated 25.07.2024, registered for the offences punishable under Sections 17, 4 and 8 of POCSO Act, 2012 and Sections 137, 3(5), 54, 65(1), 74 and 75(2) of BNS Act, 2023 at Police Station Bapoli, District Panipat.

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

“The copy application is as follows: To SHO SHAAB Police Station Bapauli Sir, this is the request that I Satish Kumar son of Rambhaj resident of village Khojkipur Kala I work as a labourer I have four children of whom three are girls and one boy. My daughter Sakshi is 15 years old, she studies in 12th class in the village government school today my daughter went to school at 8 am in the morning. My daughter Sakshi came home at around 1 pm in the afternoon. My daughter told the whole story to my wife Sarita that she met Manish son of Balbir resident of Khojkipur Kala on the way and he said that meet me outside the school at 10.30 am I have to tell you something about your mother on the request of my daughter Manish came outside the school and by luring Sakshi he took her on his motorcycle to the guest house in Samalkha at the guest house R.S. Residency Bhapra Chowk Samalkha we met two boys Sunil son of Satbir and Sumit son of Krishna. Manish took a room in the guest house and in the guest house Sunil and Sumit molested my daughter and Manish raped my daughter Sakshi. Sunil and Sumit helped Manish in the rape. Then Manish left my daughter back outside the village. Legal action should be taken against all of them. SD-

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SATISH Applicant Satish Kumar Khojkipur Phone 9813271577 Date 25.07.2024.”

3. Compliance report, by way of affidavit of Satish Kumar, HPS, Deputy Superintendent of Police, HQ, Panipat has been filed by learned State counsel in the Court today and the same is taken on record. Copy thereof has been furnished to the learned counsel for the petitioner.

4. The case has been called out twice since morning. However, none has appeared on behalf of respondents No.2 and 3.

Accordingly, this Court is proceeding to consider the petition in hand on merits thereof.

5. Learned counsel for the petitioner has argued that the petitioner is in custody since 30.07.2024. Learned counsel for the petitioner has submitted that, even as per the final report presented by the police, the prime allegations against the petitioner is that he has facilitated the renting a room where the victim has been allegedly assaulted by the main accused, namely, Manish. Learned counsel for the petitioner has further argued that the petitioner has been falsely implicated into the FIR in question as he had some acquaintance with the main accused, namely, Manish. He has submitted that the petitioner is a young man aged 23 years with no criminal antecedents. Thus, regular bail is prayed for.

6. 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.

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

8. The petitioner was arrested on 30.07.2024 whereinafter investigation was carried out & challan was presented on 06.09.2024. Total

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26 prosecution witnesses have been cited and none has been examined till date. Thus, it is indubitable that the culmination of the trial will take its own time. The rival contention of the learned counsel for the parties; as to whether the petitioner has been falsely implicated into the FIR in question on account of his having some acquaintance with the main accused, namely, Manish as also the exact role attributed to the petitioner; 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 remaining prosecution evidence. As per the custody certificate dated 09.12.2024 filed by the learned State counsel, the petitioner has suffered incarceration for more than 04 months and 09 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 present case.

9. In view of totality of factual matrix of the present case, the instant 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.



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- (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.

10. 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.

11. Ordered accordingly.

12. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.

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

11.12.2024
Jasmine Kaur

(SUMEET GOEL)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes	No
Yes	No