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CRM-M-58765-2024 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-58765-2024 (O&M)

Date of Decision: 28.11.2024

SHAMBHU KUMAR YADAV

.. Petitioner

Vs.

STATE OF HARYANA

..Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Samay Singh Sandhawalia, Advocate for the petitioner.

Ms. Ankita Ahuja, AAG, Haryana.

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SUMEET GOEL, J. (Oral)

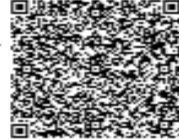
1. Present petition has been filed under Section 483 of BNSS, 2023 for grant of regular bail to the petitioner in case bearing FIR No.194 dated 16.07.2022, registered for the offences punishable under Sections 363, 366-A, 365, 376(2)(n) and 120-B of IPC and 6 of POCSO Act at Police Station Rajaund, Kaithal City.

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

“The copied article is as follows- To, Incharge Chowki Kithana, Sir, the request is that I am Balvindra son of Ramkumar resident of Kithana and do farming. I have 3 daughters and a son. My daughter Meena, age 17 years, studies in 12th class in the government school of our village. Who went to school yesterday on 15.07.2022 in the morning like every day. When my daughter Meena did not return home till evening, after that I searched a lot in her relatives and neighborhood but there was no trace of my daughter Meena. I suspect that some unknown person has lured my daughter Meena by promising marriage and took her away. You are requested to take legal action against the unknown person and recover my daughter Meena. SD/ Balwinder Applicant Balwinder S/O Ramkumar resident Kithana Mobile No. 9306558595.”

3. Learned counsel for the petitioner has argued that the petitioner

is in custody since 28.01.2024. Learned counsel for the petitioner has

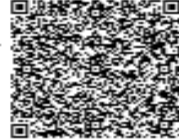
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iterated that the petitioner and the victim were having friendly terms whereafter they married each other and have resided together as husband and wife. Thereafter, under familial pressure, the victim has made inculpatory statement against the petitioner under Section 164 of Cr.P.C. and has also deposed against the petitioner as a prosecution witness. Learned counsel for the petitioner has relied upon various photographs (copies whereof have been appended as Annexure P-3 with the instant petition) to argue that these were put to the victim during her cross-examination as well & a perusal of these photographs shows that the petitioner and the victim had in fact married each other and were performing various family/domestic related rituals in presence of other family members of the petitioner. Thus, regular bail is prayed for.

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.

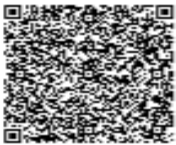
6. The petitioner was arrested on 28.01.2024 whereinafter investigation was carried out & challan was presented on 15.03.2024. Total 30 prosecution witnesses have been cited out of which only 2 have been examined till date. It is not in dispute that the testimony of the victim and the complainant/father of the victim stand recorded. The rival contention of the learned counsel for the parties; as to whether the petitioner and the victim had married each other, the effect of such marriage and the factum as to whether the victim has made the inculpatory statement against the petitioner under Section 164 of Cr.P.C. as also while deposing as a

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prosecution witness under familial pressure or not; 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. The petitioner is a young man aged 22 years with no criminal antecedents. As per the custody certificate dated 27.11.2024 filed by the learned State counsel, the petitioner has suffered incarceration for more than 09 months and 26 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.

7. 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.
- (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 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/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.

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

28.11.2024
Jasmine Kaur

(SUMEET GOEL)
JUDGE

Whether speaking/reasoned Yes No

Whether reportable Yes No