



ago Karan s/o Prem resident of village Mohna district Faridabad and Karan s/o Omprakash resident of village Mohna district Faridabad came in my street and took me near highway. We stayed below a puliya near highway. They had taken me with them on their bike. Karan son of Omprakash is my friend. He called his bua's son Ranjit and Kapil there Karan son of Prem touched me there and started kissing me. Then both Karan clicked my photographs. After some time at approximately 5.00 PM they left me at my house. Karan son of Omprakash used to come in our street every 2nd-3rd day. Approximately 10 days ago Karan s/o Omprakash took me in room of Kapil (Mohna) in the evening, there Karan s/o Prem, Ranjit s/o Vinod, Kapil Dev s/o Jogender, Raj alias Hasnain s/o sikandar were there. There I took Pepsi Karan s/o Omprakash told me to give kiss to Ranjeet. Raj alias Hasnain also disrespected me. Thereafter Karan s/o Om Prakash kissed on my lips then after half an hour Karan s/o Omprakash left me at my house. Thereafter on 6.8.24 Karan s/o Omprakash took me to the room of Kapil again there one room was vacant after leaving 3-4 rooms. Karan gave me his phone for seeing and went for bringing a cot and after he came, he took off his and my clothes and committed bad act with me When approximate 10 days ago he had taken me to that room then he had committed bad act with me in that room only. When I started shouting then Karan s/o Omprakash told me not to shout as someone will come. I used to keep one small phone concealed from family members and I used to talk to Karan. Yesterday on 08.08.24 Papa got suspicious of me and he checked my school bag. I had already taken out phone from the bag and concealed the same in the clothes which I had washed and as soon as my father picked up the clothes and checked then phone fell down and Papa took the phone and went down. Thereafter, I closed the gate of the roof and I jumped from the roof and got down from staircase of my aunt and went to Kapil's room with my



friend Mamta and there I made Kapil to call up Karan s/o Omprakash. Time was approximate 5:50 PM and I told Karan that my phone has been caught by my father, you come to pick me up. He told me that I am coming. Then he came there and gave me his number and told me that if you have any problem then call me up. Thereafter, I and Mamta returned to house of Mamata and I sat outside house of Mamta and kept on sitting there till 8:00 PM. I called up on the number which was written by Karan after asking phone from one sister. Karan s/o Omprakash came to bring me and Kapil was also with him and they took me to highway. They came to know that police was looking for me and they left me near Jhuggis on the highway and went to sleep in their house. Then police came with my father and took me to police station. I have got recorded my statement in presence of my mother, heard, it is correct. This statement is recorded in my presence Savita Rani Adv DT 9.8.2024 P/SI Neelam P/SI NEELAM W-P-S Blb DT 9/8/204 Deepika Poonam".

Today at police station- From perusal of the statement offence under Sections 6,8,17 POCSO Act, 96 BNS 20123 is made out and FIR No. 183 dated 09.08.2024 u/s 6,8,17 POCSO Act, 96 BNS 2023 was registered at PS Chhansa District Faridabad and special report of the case is being sent by hand with special constable Mandeep 4193/Fari to Area Magistrate and Senior Officers. Case was registered in presence of P/SI Neelam Women Police Station PS Ballabhgarh. P/SI alongwith Neelam Women PS Ballabhgarh and complainant/victim and legal heirs is busy in investigation. Since, P/SI did not have ID in CCTNS, therefore, case was registered in CCTNS ID of SI Rajesh 43/Fari. investigating officer of the case is P/SI Neelam Women Police Station."

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 01.09.2024. Learned counsel has further submitted that,

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assuming arguendo, the case put forth by the prosecution/victim is taken to be correct, no role of sexual assault has been attributed to the petitioner, in fact, the only role ascribed to the petitioner is that his room was used by the main accused for committing sexual assault upon the victim. Learned counsel for the petitioner has further submitted that there was friendship between the petitioner and the main accused and there was some misunderstanding on account of which the FIR in question was got registered & the petitioner has been falsely implicated as he had some acquaintance with the main accused. Learned counsel for the petitioner has further submitted that the petitioner is a young man aged 21 years with no criminal antecedents. 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 10.12.2024 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 01.09.2024 whereinafter investigation was carried out and challan stands presented on 02.10.2024. Total 28 prosecution witnesses have been cited and the charges are yet to be framed. Therefore, it is indubitable that the conclusion of the trial 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 and the material brought forth by the prosecution against the petitioner; shall be examined during the course of trial. This Court

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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 10.12.2024 filed by learned State counsel, the petitioner has suffered incarceration for a period of 03 months and 10 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/Illaq Magistrate.



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(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

11.12.2024
P.Singh

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