

2024:PHHC:034930

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

216+105

**CRM-M-63192-2023 (O&M)
Date of decision: 12.03.2024**

Dayanand @ Deepanshu

....Petitioner

V/s

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Manoj Kumar Taya, Advocate, for the petitioner.

Ms. Mahima Yashpal, DAG, Haryana.

SUMEET GOEL, J. (ORAL)

1. Present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.35 dated 03.04.2021 registered for the offences punishable under Sections 120-B, 354, 363, 366-A, 370, 376, 201, 342, 372, 373, 376-D, 468 and 471 of IPC at Police Station Women Charkhi Dadri, District Charkhi Dadri.

2. The case set up in the FIR in question is as follows:-

“My name is Deepmala Kshetriya, my father’s name is Kiran Kshetriya. My mother’s name is Runu, I am about 16 years old, my village is Gela Ukhdi District Teen Sukhia Assam. On dated 30-03-2021, Roshan Ali, a resident of my village, whom I call brother, who is from Hijugudi Highway Road, Assam, who brought me to Delhi with him saying me to get me the work of cleaning. Which I came with him without informing anyone at home. After coming to Delhi, that person sent me with some madam whose name I do not know, she brought me to Dadri. Then she kept me at her house. From there I was sent to a room built in the field with two unknown people. I don’t know that

place. There were two more other people in the room made in the farm, who molested me, then I started crying. Then they left me, they didn't do any wrong to me. In the morning one of them whose name I do not know took me to a hotel in a secluded place on dated 01-04-2021. There he don e wrong thing (intercourse) with me. Later he took me to that madam. I ran away from there as soon as I got a chance. I do not know the paths over here, on the way I met 2 uncles who brought me to the police station. I can identify those persons and Madam when they come before me. I want action be taken against them. My phone number is 6000703401 which is with the madam. I have studied till 6th class. SD/- Deepmala Kshetriya. The girl child was presented in front of the CWP member. SD/- Suman Jangda Charkhi Dadri 03.04.2021."

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 11.06.2021 & trial is underway. Learned counsel for the petitioner has referred, *in extenso*, to the testimony of PW-4 (victim) to argue that the said prime witness has turned hostile & nothing incriminating has come against the petitioner in the testimony of this witness. Learned counsel has further relied upon the order granting bail to the co-accused-Ajay passed by this Court on 04.10.2023 in CRM-M-24200 of 2023. Thus, regular bail is prayed for.

4. Learned counsel for the State 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 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 11.06.2021 whereinafter investigation was carried out & challan was presented on 10.08.2021.

Total 63 prosecution witnesses have been cited, out of which 34 witnesses have already stand recorded but culmination of the trial will still take its own time. The rival contention of the learned counsel for the parties as to the weightage required to be attached to the testimony of the hostile 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 remaining prosecution evidence. As per the custody certificate dated 11.03.2024 filed by the learned State counsel, the petitioner has suffered incarceration of about 02 years and 09 months & is not shown to be involved in any other case. Suffice to say, in the entirety of the facts and circumstances of the case, further detention of the petitioner as an undertrial is not warranted.

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 learned 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 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.

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

March 12, 2024
poonam

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No