



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

237

**CRM-M No.59605 of 2024 (O & M)
Date of decision : 3.12.2024**

Sagger @ Sageer**Petitioner**
Versus
State of Haryana**Respondent**

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Khalid Tauru, Advocate, for the petitioner

Ms. Priyanka Sadar, AAG, Haryana

Mr. Munfaid Khan, Advocate and
Mr. Randhir S. Hooda, Advocate, for the complainant

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.153 dated 27.4.2024, under Sections 363, 366-A, 34, 120-B, 372 of the IPC and Sections 6 and 17 of POCSO Act, 2012, registered at Police Station Sadar Nuh, District Nuh.
2. The case set up in the FIR in question (as set out in the present petition by the petitioner) is as follows:-

'To SHO, PS Sadar Nuh. Subject: Application against 1. Saggur son of Aalam 2. Lala son of Zahid 3. Aham son of Zahid 4. Chetan son of Bijju all are resident of village Ghasera Tehsil and PS Nuh. That one FIR bearing No. 113 Dated 30.03.2024 under section 363,366,506,34 IPC and Section 4 under POCSO Act is registered against 1. Saggur son of Lala 2. Lala son of Zahid 3. Aham son of Zahid resident of Village Ghasera. That



I am very poor lady. That the accused mentioned in the subject are extending regular threat to me. That today on dated 27.04.2024, I was at my duty at NALHAR Medical College then Chetan son of Bijju committed the abduction and kidnapping of my daughter namely Khushluma with the help of accused Saggar son of Alam, Lala and Aham son of Zahid. When I returned from my Duty to my house, then my daughter was not found at my house. They have kidnaped my daughter at around 1.30 PM. I am searching my daughter but could not traced her out. I am no more in contact with my daughter. Therefore, it is requested kinly arrest all the accused and recovery of my daughter may of aged 16 years may be done and released my daughter from their illegal custody. I shall be thankful to you. Dat 27.04.2024. Sd. Rasidan wife of Zakir resident of Village Ghasera PS Sadar Nuh.'

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 21.8.2024. Learned counsel has further argued that the challan already stands presented in the matter on 14.10.2024 whereinafter charges were framed and the victim has also been examined as PW-1. Learned counsel for the petitioner has further iterated that the petitioner and the victim were having an affair and they were married later on with each other on 27.4.2024. In this regard, learned counsel for the petitioner has placed reliance upon marriage certificate dated 27.4.2024. Learned counsel has further submitted that the victim had not made a clear inculpatory statement against the petitioner at the time of recoding of her statement under Section 164 of Cr.P.C. 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 2.12.2024



in Court, which is taken on record.

Learned counsel appearing for the complainant have vehemently opposed the grant of bail to the petitioner while arguing that the allegations raised against the petitioner are serious in nature. Learned counsel for the complainant have further submitted that in case the petitioner is released on bail, there is all likelihood that he will temper with the remaining prosecution evidence as also intimidate or threatened the FIR-complainant.

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

6. The petitioner was arrested on 21.8.2024 whereinafter investigation was carried out and challan was presented on 14.10.2024. Total 14 prosecution witnesses have been cited, out of which 3 stand examined. It is not in dispute that the testimony of the victim stands recorded as a prosecution witness. The rival contention of learned counsel for the parties; as to the relative weightage required to be attached to the statement of the victim made as a prosecution witness viz.-a-viz. her statement under Section 164 of Cr.P.C; the weightage/veracity required to be attached to the relevance of the marriage certificate dated 27.4.2024, tending to indicate marriage having taken place between the petitioner and the victim; 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 2.12.2024 filed by learned State counsel, the petitioner has already suffered incarceration for a period of three months and twelve days.

As per the said custody certificate, the petitioner is stated to be involved in another FIR registered under sections 363, 366, 506, 120-B and 34 of IPC and Section 4 of POCSO Act. Indubitably, the antecedents of a person are required to be accounted for while considering a regular bail petition preferred by him. However, this factum cannot be a ground sufficient by itself, to decline the concession of regular bail to the petitioner in the FIR in question when a case is made out for grant of regular bail *qua* the FIR in question by ratiocinating upon the facts/circumstances of the said FIR. Reliance in this regard can be placed upon the judgment of the Hon'ble Supreme Court in *Maulana Mohd. Amir Rashadi v. State of U.P. and another, 2012 (1) RCR (Criminal) 586*; a Division Bench judgment of the Hon'ble Calcutta High Court in case of *Sridhar Das v. State, 1998 (2) RCR (Criminal) 477* & judgments of this Court in *CRM-M No.38822-2022* titled as *Akhilesh Singh v. State of Haryana*, decided on 29.11.2021, and *Balraj v. State of Haryana, 1998 (3) RCR (Criminal) 191*.

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.

11. Pending miscellaneous application(s), if any, stand disposed of accordingly.

(SUMEET GOEL)
JUDGE

3.12.2024
Ashwani