



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

238

**CRM-M No.61442 of 2024
Date of decision : 11.12.2024**

Amit Kumar**Petitioner**
Versus
State of Punjab**Respondent**

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. A.P. Singh, Advocate, for the petitioner

Mr. Anup Singh, AAG, Punjab

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.29 dated 16.3.2024, under Sections 376, 363 and 366-A of IPC and Section 6 of POCSO Act, registered at Police Station Women, District SAS Nagar (Mohali).
2. The case set up in the FIR in question (as set out in the present petition by the petitioner) is as follows:-

'Copy of complaint No.784/SPL-2/SSP dated 22.05.2023, complaint No.1947/SPL-2/SSP dated 29.11.2023 and letter No.3023 /RL dated 14.06.23 3023/RL dated 14.06.23 from Ishika d/d Vijay Pal r/o H.no.728/10 Bapu Dham Colony, Sector 26 Chandigarh which has been received through post in the Police Station, the contents of which is. XX 3023/RL dated 14.06.23 from Ishika d/o Vijay Pal r/o H.no.728/10 Bapu Dham Colony, Sector 26 Chandigarh as per report: Stated Sir SAS Nagar 1136/2019 submitted that the attached complaint filed by Ishika was



received for investigation and report in this office. In this connection report was received from SHO police Station Zirakhpur. It was perused and the same is annexed herewith. As per the report of SHO Zirakhpur the complainant was associated. She appeared alongwith her mother Sushila and Advocate. She recorded her statement in English. She also presented Birth Certificate and also Class 12th certificate(photocopy). On perusal of the documents, it was reported by the SHO that the complainant Ishika was resident of Bapu Dham Colony Sector 26 Chandigarh. In the year 2016, her age was 14 years and in front of her house, there was house of one Raju. Nephew of Raju namely Amit Kumar Chet Ram r/o Village Ramba, District Karnal Haryana, used to live there. Complainant and Amit Kumar became friends and started talking on phone. At that time age of Amit Kumar was 19 years. The complainant submitted that she and Amit used to meet outside often. In month of June 2017 Amit Kumar took the complainant to Zirakhpur. They hired one room in Friends hotel Baltana where Amit Kumar established physical relation with her forcibly. And thereafter promised to marry her. Thereafter Amit till year 2019 used to have sexual relation with her at different places on the pretext of marrying her, but the complainant does not remember any of those places. In the month of October 2021, Amit solemnized marriage with some other girl. As a result, whereof, the complainant filed the aforesaid complainant against Amit Kumar. During investigation Amit was summoned to join investigation but he refused to join investigation. As per the report of SHO Zirakhpur, as per certificate of the complainant she was 14/15 years old in the year 2016. She was minor at the relevant time. As per the statement of the complainant, offence u/s 376IPC and section 6 of POCSO Act are made out. Case be registered and matter be investigated. Incase the report is accepted, the criminal case be registered against Amit Kumar s/o Chet Ram r/o Village Ramba, District Karnal Haryana u/s 376 IPC and section 6 of the POCSO Act and the SHO Zirakhpur be directed to register the case against Amit Kumar. Report is submitted. SWd/Deputy Superintendent of Police Sub Division Zirakhpur.'

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 18.3.2024. Learned counsel has further submitted that there was consensual friendship between the petitioner and the victim



which turned sour later on and it is on this account that the petitioner has been falsely implicated into the FIR in question. To buttress his arguments learned counsel for the petitioner has referred, *in extenso*, to the FIR in question, statement made by the victim under Section 164 of Cr.P.C. as also statement of the victim recorded by the police under Section 161 of Cr.P.C. (Copy whereof have been appended as Annexure P-2 with the instant petition). Learned counsel for the petitioner has further submitted that the petitioner is aged about 28 years with no criminal antecedents. 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 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 18.3.2024 whereinafter investigation was carried out and challan was presented on 24.6.2024. Total 21 prosecution witnesses have been cited out of which only one has been examined till date. Thus, 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 there was consensual friendship between the petitioner and the victim, whether the petitioner has been falsely implicated into the FIR in question as also the weightage required to be



attached to the statements made by the victim under Section 164/161 of Cr.P.C. viz.-a-viz. the statement likely to be made by her as a prosecution 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 prosecution evidence. As per custody certificate dated 10.12.2024 filed by learned State counsel, the petitioner has already suffered incarceration for a period of eight months and nine days and 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/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.

(SUMEET GOEL)
JUDGE

11.12.2024
Ashwani

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No