

CRM-M-844-2024

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

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CRM-M-844-2024

Date of decision:04.07.2024

Sunil Kumar Sahni

...Petitioner

V/s

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Harpreet S. Rakhra, Advocate with
Ms. Gurvinder Kaur, Advocate for the petitioner.

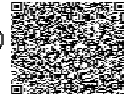
Mr. Anup Singh AAG Punjab.

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.298 dated 18.12.2022, registered for the offences punishable under Sections 363, 366-A of IPC and Section 376 of IPC and Sections 3 and 4 of POCSO Act (added later on) and later on the offence was changed from Sections 366-A of IPC to Section 366 of IPC and from Sections 3, 4 of POCSO Act to Section 6 of POCSO Act at Police Station Division No.8, Jalandhar, District Jalandhar.

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

“Statement of Mohammad Sahib son of Mohammad Bahav r/o Habipur, Momin Tola Buria Kali Sthan, P.S. Habipur, District Bagalpur, Bihar, now resident of Gobind Nagar Guja Peer Road, Street No.4, Jalandhar aged 37 years Mobile No. 7762924004. Stated that I am resident of above noted address and I am working in a factory, name of my wife is Saira Bano I have six children, my elder daughter is Muskan, aged 16 years who is uneducated and she takes care of the younger children I and my wife working in the factory. On 16.12.2022 at about 11.00 am I had come home from the factory and saw that my daughter Muskan aged 16 years was not present in the house, I enquired from the neighbourhood but I could not



find any information regarding the daughter. Now I have come to know that my daughter namely Muskan has been taken away by Sunil son of Dalip Kewat village Bakra P.S. Giri Agg, Tehsil and Distt. Nalanda Bihar now resident of Hargobind Nagar, Jalandhar by giving a false promise of marriage and has taken her. My daughter has also taken her adhaar card and I have been searching for her on my own till date but there is no clue of the daughter, so it is requested that the search of my daughter be got conducted and action be taken against Sunil. I have recorded my statement, Sd/ Hindi Sahib attested by Kulwinder Singh ASI P.S. Division NO.8, Commissionerate Jalandhar dated 18.12.2022.”

3. Learned counsel appearing for the petitioner has argued that the petitioner is in custody since 06.05.2023. Learned counsel has further argued that the petitioner and the victim had married on their own accord and have even been blessed with a child. Learned counsel has further referred, *in extenso*, to the statement made by the victim under Section 164 of Cr.P.C. of 1973, to argue that a bare perusal of the said statement reflects that the relationship between the petitioner and the victim was consensual in nature and the FIR in question has been got registered by the family of the victim as their relationship was not to the liking of the family of the victim. 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 03.07.2024 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 06.05.2023 whereinafter



Total 16 prosecution witnesses have been cited out of which only 01 has been examined till date & hence culmination of the trial will take its own time. The rival contention of learned counsel for the parties; as to whether there was consensual relationship between the petitioner and the victim which was not to the liking of the family of the victim and the weightage required to be attached to the statement made by the victim under Section 164 of Cr.P.C.; 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 03.07.2024 filed by learned State counsel, the petitioner has already suffered incarceration for a period of about 01 year and 02 months & 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 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.

(SUMEET GOEL)
JUDGE

July 04, 2024
Ajay

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