



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
221

CRM-M-61345-2024(O&M)

Date of Decision: 11.12.2024

Aftab Aalam

....Petitioner

Versus

State of Haryana

.... Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Mohan Singh Rana for the petitioner.

Mr. Aditya Pal Singla, A.A.G., Haryana.

NIDHI GUPTA, J. (ORAL)

The petitioner has filed the present 1st petition under Section 483 of The Bharatiya Nagarik Suraksha Sanhita for grant of regular bail in case FIR No. 309 dated 22.10.2023 (Annexure P-1) under Sections 363, 366 IPC and 6 of POCSO Act, registered at Police Station, Sector 9A Gurugram, District Gurugram.

Learned counsel for the petitioner *inter alia* submits that the present FIR (Annexure P-1) was registered on the basis of the statement made by the father of the victim, the relevant extract of which reads as under:-

""To SHO, Police Station Sector 9A, Gurugram. Sir it is requested that I am XXXX son of Rameshwar Ram resident of Village Vilandpur, PS Mahua, District Vaishali, Bihar at present I reside with my wife and children as a tenant at Owner Bhagwan Dass H.no. 87/8, Street no. 8,



Devi Lal Colony and worked in a company. I have two daughter and one son. My younger daughter XXXX whose D.O.B. is 06.07.2007, who have studied till 9th class in the village school and she was living with us for the last 1 ½ year. On 12.10.2023 at about 4PM, XXXX left our house without telling us and she does not have mobile phone. Till Today we are searching XXXX at our own but we cannot locate her. My daughter XXXX may kindly be located Her description is as follows fair complexion, long face, body slim, height 5 feet aged 16 years. She was wearing purple color suit, slippers in her feet and she has also took three pairs of clothes with her.”

Learned counsel for the petitioner submits that in actual fact, the relationship between the petitioner and the victim were consensual in nature as is evident from the statement made by the victim under Section 164 Cr.P.C. (Annexure P-2), wherein she has not supported the prosecution case and has stated as follows:-

“Stated that I had eloped with Aftaf. He had no intention of taking me. When he refused to take me, then I said I would commit suicide. But I will marry him when I turn 18 years. My mother and Father used to beat me. I was scared to come home. He did nothing wrong.”

Learned counsel for the petitioner further submits that the complainant and the victim have been examined. It is further submitted that the petitioner has been in custody since 10.12.2023 as undertrial. No useful purpose would be served by further detention of the petitioner in custody. Thus, it is prayed that the present petition may be allowed, and the petitioner be released on regular bail.



Learned counsel for the State opposes the prayer made on behalf of the petitioner and on instructions from SI Naresh Kumar, informs that the challan in the present case was presented on 02.02.2024; charges were framed on 02.03.2024; and out of total 19 prosecution witnesses, 4 have been examined.

Learned counsel for the State, on instructions, further confirms the submissions of learned counsel for the petitioner that the complainant and the victim have been examined.

Learned counsel for the State files custody certificate dated 09.12.2024, which is taken on record, as per which the petitioner has been in custody as an undertrial for a period of 01 year and 01 day. A copy thereof has been supplied to learned counsel for the petitioner.

Having heard learned counsel for the parties, but without commenting on merits of the case, however, keeping in view the totality of the facts and circumstances of the case including the fact that: a) the custody period of 01 year and 01 day undergone by the petitioner as an undertrial; b) no other case is pending against the petitioner as evident from the custody certificate placed on record; c) material witnesses i.e. victim and the complainant stand examined; d) out of total 19 witnesses, 4 witnesses been examined so far; and therefore, the conclusion of trial will take considerable time and no useful purpose would be served by further detention of the petitioner. Thus, the present petition is allowed.

The petitioner-Aftab Aalam S/o Ali Hasan, is ordered to be released on regular bail on his furnishing bail/surety bonds to the



satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate, concerned.

However, it is made clear that nothing stated above shall be construed as an expression of opinion on the merits of the case.

Pending application, if any, stands disposed of.

11.12.2024
Divyanshi

(NIDHI GUPTA)
JUDGE

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