

CRM-M-62426-2024 (O&M)

233

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-62426-2024 (O&M)

Date of Decision: 17.12.2024

KULWANT

.. Petitioner

Vs.

STATE OF HARYANA

..Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Vijay Dahiya, Advocate for the petitioner.

Ms. Priyanka Sadar, AAG, Haryana.

...

SUMEET GOEL, J. (Oral)

1. Present petition has been filed under Section 483 of BNSS, 2023 for grant of regular bail to the petitioner in case bearing FIR No.0111 dated 01.06.2024, registered for the offences punishable under Sections 376(2)(n) of IPC and Section 6 of POCSO Act at Police Station Lakhan Majra, District Rohtak.

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

“To, The S.H.O Saheb, Police Station, Lakhan Majra, Rohtak, Sir, it is requested, that I Nancy Dio Sh. Rajesh resident of Lakhan Majra, District- Rohtak. My date of birth is 30.04.2006. When I was doing beautician course at Radha Beauty Parlour, Abhi @ Ramu son of Radha also use to come to his mother's parlour. Since then we started talking to each other. One day, in the month of September 2022 Abhi asked to come along with him for roaming at Tilyar. We went to Tilyar and returned after roaming there. After that, in the month of December 2022 he came to my house and took me to his mother's parlour and he did wrong act against my wish. Thereafter, in March 2023, he had done wrong act with me in the parlour. In this way he committed rape with me. Meanwhile, I got engaged in the village Madina and he misused my Instagram ID and sent our photographs and chat with my fiancée. It is therefore requested to take strict legal action against Abhi.”

**CRM-M-62426-2024 (O&M)**

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 08.06.2024. Learned counsel for the petitioner has submitted that the prime private prosecution witnesses, namely, the victim as also the mother of the victim (when examined as PW-1 and PW-2 respectively) have turned hostile & hence in all likelihood the trial is not likely to culminate into conviction. Learned counsel for the petitioner has further submitted that the petitioner has been falsely implicated into the FIR in question. Learned counsel for the petitioner has further argued that the petitioner is a young man aged 21 years. Thus, the regular bail is prayed for.

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.

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

6. The petitioner was arrested on 08.06.2024 whereinafter investigation was carried out & challan was presented on 04.08.2024. Total 25 prosecution witnesses have been cited out of which only 3 witnesses have been examined till date. It is indubitable that the culmination of the trial will take its own time. The rival contention of the learned counsel for the parties; as to whether the petitioner has been falsely implicated into the FIR in question and the weightage required to be attached to the testimony of the hostile witnesses, namely, the victim as also the mother of the victim (PW-1 and PW-2 respectively); shall be gone into during the course of trial.

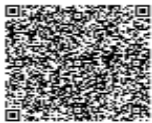
This Court does not deem it appropriate to delve deep into these rival contentions, at this stage, lest it may prejudice the trial. Nothing tangible

**CRM-M-62426-2024 (O&M)**

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 17.12.2024 filed by the learned State counsel, the petitioner has suffered incarceration for more than 06 months and 08 days & 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 present case.

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 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



CRM-M-62426-2024 (O&M)

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.

17.12.2024

Jasmine Kaur

(SUMEET GOEL)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No