



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

223

CRM-M No.62544 of 2024
Date of decision : 18.12.2024

SachinPetitioner
Versus
State of HaryanaRespondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Keshav Pratap Singh, Advocate, for the petitioner
Ms. Priyanka Sadar, AAG, Haryana

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.677 dated 26.12.2023, under Sections 363, 366, 376 (2)(n) of the IPC and Section 6 of the POCSO Act, 2012, registered at Police Station City Fatehabad, District Fatehabad.
2. The case set up in the FIR in question (as set out in the present petition by the petitioner) is as follows:-

'To, The SHO, Police Station, City Fatehabad. Subject:- Regarding filing a report of applicant's daughter went missing. Sir, my request is that I, Narender Sharma son of Shri Gauri Shankar Sharma, resident of Shivpuri Fatehabad. I have a son Lakshya and a daughter Charu. My daughter Charu Sharma whose age is 17 years has gone missing from her home (Shivpuri Temple Tejgiri Kutiya Fatehabad) today at 11:00 am. My daughter is wearing a blue jacket and black pyjamas. That my daughter's height is 5 fit 7 inches. I have searched for my daughter on my own but have not found any trace of her. I suspect that some unknown boy has eloped with her. I request you to recover my daughter as soon as possible.



You will be highly grateful. Sd/- Narender Applicant Narendra Sharma son of Shri Gauri Shankar Sharma.'

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 28.6.2024. Learned counsel has further argued that there was consensual friendship between the petitioner and the victim which was not to the liking of the family of the victim hence the petitioner has been falsely implicated into the FIR in question. Learned counsel for the petitioner has referred, *in extenso*, to the statement made by the victim as a prosecution witness (PW-1), to argue that the factum of consensual friendship between the petitioner and the victim has been clearly born out from the testimony of the victim recorded as a prosecution witness. Learned counsel has further argued that the petitioner and the victim have jointly filed a petition before the Punjab State Human Rights Commission (order passed wherein is appended as Annexure P-4 with the instant petition) for grant of protection. 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 17.12.2024 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 28.6.2024 whereinafter investigation was carried out and challan stands presented on 12.7.2024.

Total 24 prosecution witnesses have been cited, out of which two prime



private prosecution witnesses namely the victim and the father of the victim stand recorded as PW-1 and PW-2 respectively. The rival contention of learned counsel for the parties; as to whether there was consensual friendship between the petitioner and the victim, whether the said consensual friendship was not to the liking of the family of the victim, and it is on this account the petitioner has been falsely implication into the FIR in question, the weightage/veracity required to be attached to the testimony of the victim, recorded as prosecution witness no.1 and the veracity required to be attached to the petition filed before the Punjab State Human Rights Commission and the order passed therein; 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 17.12.2024 filed by learned State counsel, the petitioner has already suffered incarceration for a period of about five months and nineteen 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 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

18.12.2024
Ashwani

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