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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-63035-2024 (O&M)

Date of Decision: 19.12.2024

SAHIL

.. Petitioner

Vs.

STATE OF PUNJAB

..Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. A.P.S. Sandhu, Advocate for the petitioner.

Mr. Anup Singh, AAG, Punjab.

...

SUMEET GOEL, J. (Oral)

1. Present petition has been filed under Section 483 BNSS, 2023 for grant of regular bail to the petitioner in case bearing FIR No.31 dated 26.03.2024, registered for the offences punishable under Sections 363 and 366-A of IPC, 1860 (Sections 366, 506 and 376 of IPC and Section 6 of POCSO Act, 2012 added later on) at Police Station Khilchian, District Amritsar.

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

“Statement of Avtar Singh son of Mahinder Singh son of Banta Singh resident of village Butari police station Khalchian District Amritsar age 50 years Mobile number 95014-91483. Stated that I am a resident of the said address and I am a driver by profession. I have four children. There are three girls and one boy. My youngest daughter Kiranjot Kaur whose age is 16 years 08 months. She used to study in class 10 in senior school for girls in Rayya. She went to give her school exam on 23.03.2024 at 10 AM from home. And she has not returned home till today. We have been inquiring about the girl till now with our relatives. But now I have come to know that my daughter Kiranjot Kor has been lured away by Sahil son of Jasbir Singh resident of Annagarh Police Station Hakima Gate District Amritsar Commissionerate with the intention of marrying her. I am the the claimant, legal action may kindly taken Sd/ Avtar Singh Attested:- Sd/- Sanjeev Kumar ASI, PS Khilchian 26.03.2024.”

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3. Learned counsel for the petitioner has argued that the petitioner is in custody since 10.04.2024. Learned counsel for the petitioner has further argued that the petitioner has been falsely implicated into the FIR in question on account of a mis-understanding. Learned counsel for the petitioner has submitted that the prime prosecution witnesses, namely, the complainant/father of the victim as also the victim have turned hostile when examined as prosecution witnesses & hence in all likelihood the trial is not likely to culminate into conviction. 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 10.04.2024 whereinafter investigation was carried out & challan was presented on 30.09.2024. Total 15 prosecution witnesses have been cited out of which 4 witnesses stand examined. It is not in dispute that the testimony of the complainant/father of the victim as also the victim stand recorded and they have turned hostile. 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 prime private prosecution witnesses, namely, the complainant/father of the victim as also the victim; 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

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justice or interfering with the remaining prosecution evidence. As per the custody certificate dated 18.12.2024 filed by the learned State counsel, the petitioner has suffered incarceration for more than 08 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 without prior permission of the trial Court/Illaqha Magistrate.

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- (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.

19.12.2024

Jasmine Kaur

(SUMEET GOEL)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No