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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-62974-2024 (O&M)

Date of Decision: 19.12.2024

DEEPAK

.. Petitioner

Vs.

STATE OF HARYANA

..Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Bhupender Singh, 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.49 dated 18.09.2024, registered for the offences punishable under Section 4 of POCSO Act, 2012 and Section 351(3) of BNS, 2023 (Section 18 of POCSO Act and Sections 62 and 65(1) of BNS, 2023 added later on) at Women Police Station Karnal, District Karnal.

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

“Complaint No. 0003123104240232 CTNS Dated 18.09.2024 of Ruksana wife of Ashok Kumar resident of village Majra Rodan, Tehsil Nigdu District Karnal, To, the Station House Officer, Police Station Women, Karnal. Subject:- Complaint for taking algal action against Rakesh Mehta son of Sh. Ana Ram, caste Rod, resident of village Majra Raodan, District Karnal for committing rape upon my minor age daughter and threatening to kill her. Sir, it is requested that I Ruksana wife of Ashok Kumar am resident of village Majra Rodan, Tehsil Nigdu District Karnal.. I have three children i.e. one son and two daughters. The age of my eldest daughter is 14 years who is studying in 9th class of Government School. 2)

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That above said accused told my daughter Parveena that I have made your vulgar video and I will show it to your parents and will also make it viral on Facebook and he was blackmailing my daughter for many days under the fear of said video. On 17.09.2024 at 12.00 PM (mid night), my daughter received phone call of said accused and he told my daughter that today let's go with me otherwise I will show this video to your parents and he started forcing my daughter and told my daughter that I am standing in the street, you come here through the roof of your house. 3) That above said accused took my daughter from the street to Chaupal near the temple, where the rooms are constructed and there is Khat/cot lying there and the above said accused has committed rape upon my daughter for many times during night hours under the fear to make her video viral and despite of refusing him by my daughter, he did not mend his ways and he has done these forcible acts for whole night and next day at 6.00 AM, he left my daughter in the street and had gone from there. 4) That my daughter has informed us about it at house. 5) That the medical examination of my daughter be got conducted and legal action be taken by registering case against the accused. Dated: 18.09.2024, Sd/- Ruksana, Ruksana wife of Ashok Kumar resident of village Majra Rodan, Tehsil Nigdu District Karnal. dated 18.09.2024."

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 22.09.2024. Learned counsel for the petitioner has further argued that the petitioner has been repeatedly changing her stand which is decipherable from the FIR in question in which no specific allegation has been made against the petitioner; thereafter a statement under Section 183 of BNSS, 2023 was recorded wherein no allegation has been made against the petitioner (herein); thereafter a statement was recorded by the police on 20.09.2024 wherein the victim has stated that the petitioner has also assaulted the victim & thereafter another statement under Section 183 of BNSS, 2023 was recorded before the concerned Judicial Magistrate on 22.09.2024 wherein the victim has again changed her stance and has said that nothing wrong had happened with her as she was in a love affair with co-accused Vishal. Learned counsel for the petitioner has

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iterated that the petitioner is a young man aged about 21 years with no criminal antecedents. Learned counsel for the petitioner has further iterated that the entire case of the prosecution is based upon certain video(s) of the victim. Learned counsel for the petitioner has further argued that the petitioner, if released on bail, will not be in a position to influence the prosecution evidence. 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 22.09.2024 whereinafter investigation was carried out & challan was presented on 14.11.2024. Total 22 prosecution witnesses have been cited and none has been examined till date. The rival contention of the learned counsel for the parties; regarding the weightage required to be attached to the changing stance(s) of the victim as also whether there was any kind of intimacy/relationship between the victim and another co-accused; 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 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 02 months and 24 days & is not shown to be involved in any

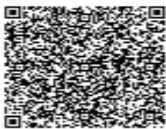
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other case. Suffice to say further detention of the petitioner as an undertrial is not warranted in the facts and circumstances of the present case.

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/Illaq 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



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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