



CRM-M-65011-2024 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-65011-2024 (O&M)
Date of Decision: 10.01.2025

NAVEEN

.. Petitioner

Vs.

STATE OF HARYANA

..Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Parveen Sharma, Advocate for the petitioner.

Ms. Priyanka Sadar, AAG, Haryana.

...

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.166 dated 15.04.2022, registered for the offences punishable under Section 346 of IPC (Sections 302, 201 and 34 of IPC added later on) at Police Station Sadar Sonipat, District Sonipat.

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

“To SHO, police station Sadar sonipat. Sir it is submitted that I am Seema Sharma wife of Shiv kumar Sharma, resident of Ganganagar, Bulandshahar Kotwali Gohov, Bulandshahar. I have one son namely Himanshu who is about 26 years Aged. He is of Brown complexion, round face, a symbol of wound under left eye, height is 5 Feet 2 Inches with healthy body. He is 12th pass and unmarried. On dated 04.04.2022 he had come to Dhaba to do work Which is situated near Village Harsana Kalan near Liquor vend. On 6/4/2022 he went without telling anything to anyone and no one is known about him till now, either my son has hidden himself or someone has hidden him somewhere, no clue is found, therefore my son please be traced out. Thanking you. Sd./- Seema Sharma, 8979092026, on receipt of the information, a case no.166 dated 15.04.2022 was registered under section 346 IPC at police station Sadar Sonipat.”

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3. Learned counsel for the petitioner has argued that the petitioner is in custody since 17.05.2023. Learned counsel for the petitioner has submitted that the prosecution case, at the most, is of last seen evidence for which the prosecution has relied upon two witnesses, namely, Pawan and Gaurav @ Rockey. Learned counsel for the petitioner has further submitted that both these witnesses, namely, Pawan and Gaurav @ Rockey (when examined as PW-2 and PW-4 respectively) have turned hostile. Learned counsel for the petitioner has further submitted that there is no further clear evidence coming forward in the prosecution challan against the petitioner. Learned counsel for the petitioner has further argued that the petitioner has been falsely implicated into the FIR in question. Learned counsel for the petitioner has further submitted that the petitioner is a young man aged 22 years. Thus, 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 17.05.2023 whereinafter investigation was carried out & challan was presented on 03.08.2023. Total 28 prosecution witnesses have been cited out of which only 8 witnesses have been examined till date. The conclusion of the trial, indubitably, takes its own time. The rival contention of the learned counsel for the parties; as to whether the case in question pertains to last seen evidence only; the weightage required to be attached to the testimony of hostile last seen witnesses, namely, Pawan (PW-2) and Gaurav @ Rockey (PW-4); shall be

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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 09.01.2025 filed by the learned State counsel, the petitioner has suffered incarceration for more than 01 year, 07 months and 19 days. As per the said custody certificate, the petitioner is said to be involved in other FIR(s) also. Indubitably, the antecedents of a person are required to be accounted for while considering a regular bail petition preferred by him. However, this factum cannot be a ground sufficient by itself, to decline the concession of regular bail to the petitioner in the FIR in question when a case is made out for grant of regular bail *qua* the FIR in question by ratiocinating upon the facts/circumstances of the said FIR. Reliance in this regard can be placed upon the judgment of the Hon'ble Supreme Court in ***Maulana Mohd. Amir Rashadi vs. State of U.P. and another, 2012(1) R.C.R. (Criminal) 586***; a Division Bench judgment of the Hon'ble Calcutta High Court in case of ***Sridhar Das vs. State, 1998(2) R.C.R. (Criminal) 477*** & judgments of this Court in ***CRM-M-38822-2021*** titled as ***Akhilesh Singh vs. State of Haryana***, decided on 29.11.2021 and ***Balraj vs. State of Haryana, 1998(3) R.C.R. (Criminal) 191***. 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

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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/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.

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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.

10.01.2025*Jasmine Kaur***(SUMEET GOEL)
JUDGE**

Whether speaking/reasoned

Yes No

Whether reportable

Yes No