

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

307

CRM-M-41820-2023 (O&M)

Date of Decision : 14.11.2023

GAURAV NAGPAL @ GOURAV NAGPAL

.... Petitioner

VERSUS

STATE OF HARYANA

.... Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Mayank Goyal, Advocate for the petitioner.

Ms. Priyanka Sadar, AAG Haryana.

Mr. Vijay Kumar Agarwal, Advocate for the complainant.
(Legal Aid Counsel)

ALKA SARIN, J. (ORAL)

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in FIR No.0002 dated 13.01.2023 registered under Sections 323, 354-A, 354-A(1)(i), 506, 509 (Section 376 read with Sections 511, 354-A(1)(ii), 354-B added later on) of the Indian Penal Code, 1860 registered at Police Station Women, Police Station Sirsa, District Sirsa.

2. Learned counsel for the petitioner would contend that the petitioner and the complainant (who is elder to him) were in a consensual relationship since June 2021. It is further the contention that though the allegations in the FIR pertain to the year 2021, however, the FIR was lodged on 13.01.2023 and that too when the petitioner had solemnized his marriage with someone else on 14.12.2022. Learned counsel would further contend

that the complainant now stands examined and there are material contradictions and improvements in her statement recorded before the Court below as PW-1. Learned counsel further contended that there is no medical to support the allegations made in the present case.

3. Learned counsel for the State, on instructions from ASI Manju Bala, has stated that the complainant's statement stands recorded and that out of 12 prosecution witnesses, only one has been examined so far. Learned counsel for the State has filed the custody certificate and as per the custody certificate, the petitioner has been in custody for a period of five months and six days.

4. Heard.

5. In the present case the FIR was lodged on the statement of the complainant who stated that she had been in conversation with the petitioner for the last two years. In June 2021 the petitioner started taking her to a café and on one day he took her to King Café, which is on Hisar Road, and inside the cabin the petitioner took off his clothes and started doing obscene acts with her. Though she protested, however, the petitioner promised that he would marry her soon. Thereafter, he continued to do obscene acts with her on the pretext of marriage. The petitioner is alleged to have taken the complainant at an isolated place of Hooda and some time inside the Bal Bhawan and at the deserted place of the railway station. The petitioner is also alleged to have taken her to his house. However, the petitioner married another woman about a month prior to the lodging of the FIR.

6. Learned counsel for the petitioner has pointed out that there are

various improvements which have been made in the statement of the complainant recorded before the Court below as PW-1 to the extent that even the name of the café, where the petitioner is alleged to have taken the complainant, now stands changed. As per the allegations made in the FIR, the petitioner and the complainant appear to have been in a consensual relationship which seems to have gone sour at some point of time. The petitioner has been in custody for a period of five months and six days. Out of 12 prosecution witnesses, only one has been examined. The trial is likely to take some time to conclude and no useful purpose would be served by keeping the petitioner behind the bars any further.

7. In view of the above and without commenting upon the merits of the case, this Court deems it to be a fit case to grant the concession of regular bail to the petitioner. The petitioner is directed to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the Trial Court/Additional Sessions Judge (Duty) concerned.

8. However, the Prosecution will always be at liberty to apply for cancellation of bail in case the petitioner is found to be misusing the concession of bail in any manner.

9. It is also made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.

10. Disposed off. Pending applications, if any, also stand disposed off.

14.11.2023

Aman Jain

NOTE:

(ALKA SARIN)

JUDGE

Whether speaking/non-speaking: Speaking

Whether reportable: YES/NO