

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M-42954-2023

Date of Decision: 04.09.2023

Ajay Mishra @ Jugnu

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Babbar Bhan, Advocate for the petitioner.

Mr. Jaswinder Singh Arora, DAG, Punjab.

Mr. C.P. Tiwana, Advocate for the complainant.

NIDHI GUPTA, J. (ORAL)

Vakalatnama filed on behalf of the complainant is taken on record.

The petitioner has filed the present first petition under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail in case FIR No. 104 dated 09.04.2023 registered under Section 376 IPC at Police Station Dera Bassi, District SAS Nagar, Mohali.

The aforesaid FIR (Annexure P-1) was registered on the basis of statement of complainant/victim which is reproduced as under:-

“.....that I am resident of above said place I am doing work of sweeping and cleaning at Zirakpur. I was married in at 2005 with Om Parkash Singh son of Ram Bachan Singh resident of village Badinalpur Police Station Katamb Aurangabad (Bihar) from the said wedlock I have 3 daughters. My husband use to be often unwell and had migrated to Punjab in search of work in the year 2003. Even after coming there he has not been doing anything and use to remain under the influence of liquor most of the time. In

order to make by livelihood I started working in the house of the people. In order to take my husband to the hospital I use to hire an Auto Rickshaw. The auto Driver Ajay Misra @ Jugnu used to take my husband and me to the hospital in sector 12 Panchkula from Dera Bassi and used to drop us back. I became friendly with him and started to taking me at phone and thereafter in 2020 we went back home to Bihar, where it got divorce from my husband in Panchayat. Thereafter I got separated from my husband again along with my daughter cam back to Dera Bassi Punjab. Thereafter Ajay Misra @ Jugnu made a telephonic called me to hire the auto I disclosed to him that I have got divorce from my husband. He started calling me every day and uses to talk at length on the phone and our friendship turn into love affair and Ajy Misra @ Jugnu started living me live-in-relationship since 2020 and started having physical relation with me at my house. As and when I asked him to marry me, he used to take me to Mansa Devi Temple and used to put vermilion on forehead and use to say that now were are married. Ajay Misra @ Jugnu son of Gopi resident Nagla road Zirakpur, PS Zirakpur District SAS Nagar has been living with me since 2020 thereafter in the month of February 2023 I conceived and I disclosed to him about my pregnancy. Thereafter, Ajay Misra @ Jugnu left me and went away. I produced the photograph and the videos. He did not turn back thereafter. I keep calling him however he has been making one or the pretext and keeping me in fusions. On dated 14.03.2023 on account of illness I had miscarriage. I request to you take legal against Ajay Misra @ Jugnu and justice be done to me”.

Learned counsel for the petitioner, *inter alia*, submits that petitioner has been falsely implicated in the present case. The victim/complainant in the present case is 30 years old lady and has 03 daughters. The petitioner and victim were in a live-in relationship since the year 2020. Learned counsel for the petitioner submits that the present FIR was lodged against the petitioner only on the allegation that he refused to marry the victim/complainant. It is submitted that the victim/complainant is not legally divorced from her husband and had only taken Panchayati divorce. The petitioner is in custody since 07.05.2023. He is not involved in any other case. The trial is likely to take long time. No

useful purpose will be served by further detention of the petitioner in custody. Thus, it is prayed that petitioner may be released on regular bail.

Learned counsel for the victim/complainant fairly admits the fact that the victim/complainant has taken only Panchayati divorce from her husband.

Learned counsel for the State has filed custody certificate dated 04.09.2023, which is taken on record, as per which the petitioner has been in custody as an undertrial for a period of 03 months and 28 days. Learned counsel further submits that challan in the present case has been presented, however, charges are yet to be framed.

Having heard learned counsel for the parties, but without commenting on merits of the case, keeping in view the totality of the facts and circumstances of the case including the fact that there is no other case against the petitioner, as well as the fact that trial is yet to commence in the present case, therefore, it will take some time in conclusion, the present petition is **allowed**.

The petitioner-Ajay Mishra @ Jugnu, is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate, concerned.

04.09.2023
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(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No