

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-520-2024 (O&M)

Date of decision:15.01.2024

Jaspreet Singh alias prince Sapra

...Petitioner

V/s

State of Punjab

....Respondent

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Mansur Ali, Advocate with
Mr. Raj Sumer Singh, Advocate,
Mr. Imran Ahmed, Advocate and
Mr. Tushar Madaan, Advocate for the petitioner.

Mr. Anup Singh AAG Punjab.

Ms. Neha Dewan, Advocate for the complainant.

SUMEET GOEL, J.

1. Present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.0268 dated 19.12.2022, registered for the offences punishable under Sections 376, 406,420 at Police Station Civil Lines, District Patiala.
2. The broad case set up in the FIR in question, is that the complainant has alleged that she had met the petitioner on social media (tik tok) whereinafter they both started interacting. The complainant has alleged that they had started chatting with each other and the petitioner even took her to Dubai to celebrate his birthday. It was alleged that the complainant has been sexually abused by the petitioner on the pretext of marriage and was cheated by the petitioner to part with various expensive gifts as also was allured by him to transfer money to him as also his relatives. The

complainant has raised grievance that the petitioner has cheated her by extending a fraudulent promise of marriage and has thereafter refused to marry her.

3. Learned counsel for the petitioner has argued that the petitioner and the prosecutrix, were both adults, when they entered into a consensual relationship. Such relationship was entered into between them somewhere around August of 2020 and they have even travelled together to Dubai in April of 2022 and willingly stayed in the same room. It is further argued that the FIR in question is outcome of such consensual relationship falling apart due to same supervening circumstances. The culmination of trial will take long and hence the petitioner deserves to be enlarged on bail.

4. Learned State counsel as well as counsel appearing for the complainant have 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. Learned counsel for the complainant has also argued that the complainant apprehends that, in case the petitioner is released on bail, he would try to influence the complainant so that she (complainant) does not give a truthful testimony in Court when sought to be examined as a prosecution witness.

5. I have heard counsel for the parties and have gone through the available records of the case.

6. After completion of investigation, challan was presented on 03.04.2023 wherein total of 16 prosecution witnesses have been cited. The question as to whether the relationship between the petitioner-accused and the prosecutrix was consensual or otherwise & as to whether the physical

relations stated to have been established between the parties were on account of consent obtained in a fraudulent manner or otherwise by the prosecutrix will be gone into during the course of trial. This Court does not deem it appropriate to delve deep into this aspect of the matter at this stage lest it may prejudice the case of either parties. In this regard, Hon'ble Supreme Court in a judgment titled as ***Pramod Suryabhan Pawar vs. The State of Maharashtra & Anr. 2019(4) RCR (Criminal) 135*** has held as follows:

12 This Court has repeatedly held that consent with respect to Section 375 of the IPC involves an active understanding of the circumstances, actions and consequences of the proposed act. An individual who makes a reasoned choice to act after evaluating various alternative actions (or inaction) as well as the various possible consequences flowing from such action or inaction, consents to such action. In Dhruvaram Sonar which was a case involving the invoking of the jurisdiction under Section 482, this Court observed:

"15. An inference as to consent can be drawn if only based on evidence or probabilities of the case. "Consent" is also stated to be an act of reason coupled with deliberation. It denotes an active will in mind of a person to permit the doing of the act complained of"

*This understanding was also emphasised in the decision of this Court in **Kaini Rajan v State of Kerala:***

"12.... "Consent", for the purpose of Section 375, requires voluntary participation not only after the exercise of intelligence based on the knowledge of the significance of the moral quality of the act but after having fully exercised the choice between resistance and assent. Whether there was consent or not, is to be ascertained only on a careful study of all relevant circumstances."

As aforesaid, the rival contentions regarding the genuinity of the promise of marriage and allegation of obtaining consent on basis thereof will be looked into by the trial Court at appropriate stage on the basis of

evidence brought on record during the course of trial. The petitioner has undergone incarceration for a period of about 01 year and 04 months and he is not stated to be involved in any other case. Though learned counsel for the complainant has raised apprehension that the petitioner, if released on bail, may influence her in not truthfully deposing during the course of trial but no reasonable/tangible basis thereof has been shown. Further no material has been brought forward to show any reasonable apprehension of the petitioner fleeing from the process of law/justice. In considered opinion of this Court, in the facts and circumstances of the case, further detention of the petitioner is not warranted.

7. In view of above, the present 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/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.
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.

(SUMEET GOEL)
JUDGE

January 15, 2024
Ajay

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No