



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

214

CRM-M No.4082 of 2024
Date of Decision: 29.05.2024

Pahul Kalia ... Petitioner

Versus

State of Punjab and another ... Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Sanjeet Singh Taank, Advocate,
for the petitioner.

Ms. Ruchika Sabherwal, Sr. DAG, Punjab,
for the respondent-State.

Mr. Rohit Gupta, Advocate,
for respondent No.2.

MANISHA BATRA, J.(Oral)

1. The present petition has been filed under Section 439 of Cr.P.C. seeking regular bail in the FIR mentioned below:-

FIR No.	Police Station	Section
60	Zirakpur, District SAS Nagar	376 of IPC

2. Brief facts relevant for the purpose of disposal of the present petition are that on 31.08.2020 a written complaint was made by the complainant “P” (name withheld) alleging therein that the petitioner who is cousin brother of one of her friends had met him in the year 2017. He had induced her to enter into a physical relationship with him on the pretext of solemnizing marriage. They were living in “live in relationship” since then. During the lockdown period, they were not

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together. After lockdown, he came to her on 25.06.2020 and forcibly established physical relations with her and then went back to his native place at Amritsar. Thereafter, he stopped picking up her calls. In the meanwhile, she had become pregnant and when managed to tell him about this fact, he firstly pressurized her to go for an abortion and on her denial, he tried to kill her. His parents who were aware about their relationship also avoided her. Therefore, she prayed for taking action against him. Enquiry was marked to ASI Baljinder Singh and on receipt of his report, FIR was registered.

3. After registration of FIR, investigation proceedings were initiated. The complainant was medically examined. She was found to be 18 weeks' pregnant. Her statement under Section 164 of Cr.P.C. was also recorded. On 18.02.2021, she delivered a child. The DNA profile of the complainant was taken. The presence of the petitioner could not be secured even after the issuance of warrants of arrest. Look out circular was issued against him and it was found that he had been staying at Dubai. He was detained by the immigration authorities on 11.09.2023 when he came from Dubai and was arrested as per law. The DNA blood samples of the petitioner were taken. Efforts were made to trace the complainant for the purpose of getting the DNA of the child born to her but as she had also moved abroad, therefore, the same could not be taken. Investigation has since been completed.

4. The petitioner had moved an application for grant of regular bail before the Special Court, SAS Nagar but the same was dismissed vide order dated 21.11.2023.

5. It is argued by learned counsel for the petitioner that he has

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been falsely implicated in this case. The complainant and himself were in consensual relationship since 2017 but he had never made any promise to marry her. Contradictory claims were made in the FIR itself with regard to their living together. There was delay of two months in reporting the matter to the police. Since the petitioner was well aware that the complainant had been maintaining physical relations with other persons as well, therefore, after coming to know about her pregnancy, he had made a request to conduct DNA of the child in her womb, which was not accepted by the complainant. He had gone to Dubai on work visa on 24.01.2021 when even FIR was not registered. He had come to India in June 2022 and November 2022 and had gone to Dubai after staying for sometime but was not called for joining investigation. It is also submitted by learned counsel for the petitioner that a compromise has been arrived at between the parties and a petition bearing CRM-M-22530 of 2024 titled as *Pahul Kalia v. State of Punjab and another* has been filed by the petitioner before this Court. The complainant has also recorded her statement before the Court of Judicial Magistrate in the said quashing petition on 20.05.2024. Custodial interrogation of the petitioner is not required. No useful purpose would be served by detaining him in custody any more. Therefore, it is argued that he deserves to be given concession of bail.

6. Status report has been filed. Learned State counsel has argued that supplementary challan would be submitted against the petitioner after receipt of sample of the child born to the complainant as the same could not be collected so far. It is argued that keeping in view the gravity of the allegations, the petitioner does not deserve to be given concession of bail.

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7. Mr. Rohit Gupta, learned counsel appearing on behalf of respondent No.2, on the other hand, argued that since a compromise has been effected between the parties and the complainant has even recorded her statement that she has no objection if the FIR of this case is quashed, therefore, the petitioner may be extended benefit of bail.

8. I have heard learned counsel for the parties at considerable length and have gone through the record.

9. The allegations against the petitioner are that he established physical relationship with the complainant since the year 2017 by making a promise to marry her but backed out from the same promise after impregnating her so much so that he left the country and started staying in Dubai. His presence could be secured after issuance of a look out circular. Learned counsel for the petitioner has placed on record a certified copies of order dated 20.05.2024 passed by Judicial Magistrate, Derabassi as well as copy of statement of the complainant as recorded on the same date showing that she stated that she had no objection if the FIR was quashed. The petitioner is in custody since 11.09.2023. The investigating agency has not been able to collect any forensic/medical evidence so far to show that the petitioner is the biological father of the child born to the complainant. The complainant is an adult female who of course knew the consequences of the physical relationship in which she was involved with the petitioner since the year 2017 as per her own version. It appears to be a case of consensual relationship since she herself has recorded a statement now for quashing of FIR of this case. In view of the discussion as made above, I am persuaded to hold that the petitioner deserves to be extended benefit of bail at this stage.

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Hence, the petition is allowed and the petitioner is ordered to be admitted to bail subject to his furnishing personal as well as surety bonds to the satisfaction of learned trial Court.

10. It is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

29.05.2024
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(MANISHA BATRA)
JUDGE

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