

2024:PHHC: 016399
IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-5056-2024

Date of Decision : 06.02.2024

Naveen

...Petitioner

Versus

Union Territory Chandigarh

....Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Sube S. Kaushik, Advocate for the petitioner.

Mr. Manish Bansal, Addl.PP, U.T. Chandigarh

SUMEET GOEL, J. (ORAL)

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.0113 dated 11.11.2023 registered for the offences punishable under Sections 312 and 376 IPC at Police Station Sarangpur, U.T. Chandigarh.

2. The case set up in the FIR in question is as follows:-

"To The S.S.P. Sahib, Sector-09, Chandigarh. Sir, Respectfully it is submitted that I, Usha am a daughter of Doctor Sahib. I am aged 35 years and have already been married and I am having 3 (three) children. Being aware about all these facts, one young boy, namely, Naveen came in my life and he developed physical relations with me. On the pretext of solemnizing marriage with me, he got me divorced from my husband and the custody/ protection of my children was given to their father. I have been continuously giving him money earned by me doing work for the last 5 years. He met me in the year 2017 and I got divorce on dated 27.04.2021. During all this period, he made me pregnant twice and by making me to consume the medicines, he aborted me. His entire family was aware about all this. His mother - Reeta Devi and his sister-Kalpana was also aware about this. He has been continuing to commit rape upon me for the last 5 years and now he is saying that he can't solemnize marriage with me and I will marry some other girl. Naveen is resident of 234-B, Dhanas, Chandigarh, Mobile : 98780-27230.

Police proceedings: Today one Complaint PW No. 2022/013536 dated 17.11.2022, made Usha Gupta D/O Manger Saha, R/O 596, Village Dhanas, Chandigarh was received through post/ Dak at the Police Station, regarding which after conducting Enquiry and after obtaining legal opinion, the case was sent to the Senior Officers on which D.A. (L) has written that "Case U/S 376, 313 I.P.C. CASE be registered", order was passed, on which after registering a case at the Police Station against Naveen S/O Shaddev Parsad R/O 234-B, Dhanas, Chandigarh, the original statement along with the copy of File is being sent to L/S.I. Babita 118- /CHG at P.P., PGI, Sector 12, Chandigarh by hand through C. Anil 7212/CP. Copies of the F.I.Rs. will be sent to the Senior Officers".

3. Learned counsel for the petitioner has argued that the petitioner was arrested on 02.01.2024 whereinafter investigation was completed and challan has been presented. Learned counsel for the petitioner, while referring to the averments made in the FIR, submits that the case in hand is one of the consensual relationship & the FIR has been got registered by the victim on account of fall out of consensual relationship. Thus, regular bail is prayed for.

4. Learned counsel for the State has opposed the present petition by arguing that the allegations raised are serious in nature and, thus, the petitioner does not deserve the concession of 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 02.01.2024, whereinafter, investigation in the case was carried out and challan also stands presented. Total 10 prosecution witnesses have been cited and the culmination of the trial will take its own time. The rival contention of the learned counsel for the parties as to whether the case is one of consensual relationship having fallen apart or it is a case of establishing physical relations on the false pretext of marriage will be 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 case of the either parties. As per the custody certificate dated 06.02.2024 filed by learned State counsel, the petitioner is not shown to be involved in any other criminal case. Further, no perceptible material has been forward brought before this Court to indicate likelihood of the petitioner absconding from the process of justice or interfering with the prosecution evidence. Suffice to say, further detention of the petitioner is not warranted.

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 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.

February 06, 2024

 ps

(SUMEET GOEL)

JUDGE

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

Whether reportable : Yes/No