

217

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-6583-2024 (O&M)

Date of Decision: 13.02.2024

PARSHANT KUMAR

.. Petitioner

Vs.

STATE OF PUNJAB

..Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Ms. Menka Gupta, Advocate for the petitioner.

Mr. Anup Singh, AAG, Punjab.

...

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.134 dated 11.11.2023, registered for the offences punishable under Sections 366 and 376(2)(n) of IPC and Section 6 of POCSO Act, 2012 at Police Station Anandpur Sahib, District Rupnagar, Punjab.
2. The case set up in the FIR in question is as follows:-

“Copy of statement, Statement of Jaslin Kaur D/o Amandeep Singh, R/o Ward No.4, H.No.17, Anandpur Sahib, aged about 17 years, Mob. No.98140-68812, stated that I am resident of abovementioned address and is studying in +2 class at Khalsa School. On 20.07.2023, I received a hello message on my INSTA ID jasleen.-kaur from one itsparshant-joshi-01 ID, then I replied after waiting for sometime, then he told me that he is known to me, he has seen me many a times and also like me. You will do friendship with me, then I told him that we can become friends. He disclosed his name to me as Parshant kumar S/o Pawan Kumar Joshi, R/o Bikapur and he continuously started messaging me and in this way, we both send messages to each other and also shared our mobile numbers with each other. In this way, we became friends. One day, he took me alongwith him in a room at FOOD HUB Café, where he forcibly made physical relations with me against my wishes and said

me that he will solemnize marriage with me and on 05.10.2023, he again took me at FOOD HUB Café and again made physical relations with me against my wishes and when I asked him about marriage, then he told that on right point of time we will solemnize marriage. I had scared so much. On 01.11.2023, he again called me for meeting towards canal side. One day I disclosed all things to my parents. My parents went at their house, but his parents behaved with my parents very rudely. Today I alongwith my father came present at Police Post Anandpur Sahib, where I recorded my statement with you, heard and which is correct. Sd/- Jasleen Kaur, Identified Sd/- Amandeep Singh, Attested Sd/ Navdeep Kaur SI, Police Post Anandpur Sahib.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 11.11.2023. Learned counsel for the petitioner has further argued that there was a consensual friendly relationship between the petitioner (who is aged about 22 years) and the victim & the instant FIR has been got registered by the victim on account of fall out of such consensual relationship. Learned counsel for the petitioner has referred, *in extenso*, to the contents of the FIR as also whatsapp messages (appended as Annexure P-2 with the present petition) to buttress her argument regarding there being consensual friendly relationship between the petitioner and the victim. Thus, regular bail is prayed for.

4. Learned State counsel has 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.

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

6. The petitioner was arrested on 11.11.2023 whereinafter investigation was carried out and challan stands presented on 11.01.2024.

Total 19 prosecution witnesses have been cited & the culmination of trial

parties as to whether there was consensual relationship between the petitioner and the victim & that the instant FIR has been got registered on account of fall out of such relationship shall 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 rights of either of the parties. As per custody certificate dated 10.02.2024 filed by learned State counsel, the petitioner has suffered incarceration for about three months & the same does not reflect involvement of the petitioner in any other case. No perceptible material has been brought forward to indicate that there is likelihood of the petitioner absconding from the process of law or interfering with the prosecution evidence. Suffice to say, further detention of the petitioner as an undertrial 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/Illaqha 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.

13.02.2024

Jasmine Kaur

Whether speaking/reasoned

Whether reportable

(SUMEET GOEL)

JUDGE

Yes No

Yes No