

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-8371-2024

Date of decision: 21.02.2024

Saurabh

....Petitioner

V/s

State of Haryana

....Respondent

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Sarun Hans, Advocate for the petitioner.

Ms. Priyanka Sadar, AAG Haryana.

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.656 dated 05.08.2023, registered for the offences punishable under Sections 354-A, 354-C, 506, 376(2)(n) of IPC and Section 67 of IT Act at Police Station Barwala, District Hisar.
2. The case set up in the FIR in question is as follows:-

“Stated that I am Sanjana D/o Ram Niwas and resident of village Pabara. I am student of B.A. First. We are three sisters and one brother. I am 19 years of old. My mother has passed away and my father work as Brick Supplier and my father has make his office in plot near our house. Saurabh son of Kala Ram, resident of village Pabra used to work in that office. Saurabh used to come our house also. That is why I know Saurabh. Whenever Saurabh used to come our house he used to keep evil eye on me and pressurized me to do friendship with him. I warned him many times not to look at me with wrong intention otherwise I will tell my family. On 23.04.2023, on my INSTRAGRAM I.D. cute buggy, Saurabh sent me a video of me taking a bath from his INSTAGRAM I.D. krezy_evil_(Saurabh Kayat) and said that you should be friend of me otherwise I will make this

video viral on Social Media. Then I asked Saurabh when did you make this video. Then he told that I made this video at your house on 20.04.2023. Due to fear of video going viral I become friend with Saurabh and started to talk with him. Saurabh came to our house at 05.05.2023 at that time I was alone at home and as soon Saurabh come, he greeted me first. He started molesting me by threatening to make the video viral and he make video of both of us in my phone and send the video from my instagram to his Instagram I.D. Saurabh kept pressuring me to have physical relationship and I refused Saurabh for this. Saurabh on dated 20.07.2023 make the video viral on his face book I.D. which was make from my phone whose you URL <https://www.Facebook.com/profile.php?id=100069872546315> after making this video viral. He threatened me that I will make your bathing video viral, otherwise you go to the hotel near Delhi Bus stand as per my instructions and I will come there later on. Yesterday on 04.08.2023, fearing that video would go viral I left the house on Surabh request and went to a hotel in Delhi Surabh had already booked the hotel. I was staying the hotel before Surabh reached my family reached the hotel and picked me up from the hotel. Surabh brother in law Virender knew about all this things and was supporting Saurabh. Today I am coming to the police station and submitting the application. Legal action be taken against Surabh and Virender”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 23.08.2023 and investigation in the case is already complete. Learned counsel has referred, *in extenso*, to photographs (appended as Annexure P-2 with the present petition) and whatsapp chat between the petitioner and the victim (copy whereof has been appended as Annexure P-5) to argue that there was consensual friendship between the petitioner and the victim & the FIR in question has been got registered on account of the fact that such friendship was not to the liking of the family of the victim. In this view of the matter, learned counsel has prayed for grant of regular bail.

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. Learned State counsel seeks to place on record custody certificate dated 20.02.2024 in Court, which is taken on record.

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

6. The petitioner was arrested on 23.08.2023 whereinafter investigation was carried out and challan was presented on 20.11.2023. Total 18 prosecution witnesses have been cited and culmination of the trial will take its own time. The rival contention of the learned counsel for the parties, regarding the aspect of there being consensual friendship between the petitioner and the victim & the FIR in question having been got registered on account of such friendship not being to the liking of the family of the victim, 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 case of either parties. No DNA/FSL evidence is available, at this stage, so as to substantiate the case of the prosecution. Further, no tangible material has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the prosecution evidence. As per custody certificate dated 20.02.2024 filed by learned State counsel, the petitioner has already suffered incarceration for a period of more than 05 months and 27 days. Suffice to say, further detention of the petitioner as an undertrial 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/Illaqqa 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

February 21, 2024
Ajay

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