

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-11761-2024 in/&
CRM-M-10248-2024 (O&M)

Date of decision:19.03.2024

Harmandeep Singh

...Petitioner

V/s

State of Punjab

....Respondent

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. B.S. Baath, Advocate for the petitioner.
Mr. Anup Singh AAG Punjab.
Mr. Amit Dhawan, Advocate for the complainant.

SUMEET GOEL, J. (Oral)

CRM-11761-2024

Application is allowed as prayed for. Documents are taken on record as Annexures P-6 to P-8, subject to all just exceptions. Registry to tag them at the appropriate place.

CRM-M-10248-2024

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.0155 dated 07.12.2023, registered for the offences punishable under Sections 376, 506, 120-B of IPC (sections 450, 354, 354-A added later on) at Police Station Kartarpur, District Jalandhar Rural.
2.
- The case set up in the FIR in question is as follows:-

“Statement of Lovely d/o late Sh. Rajpal, r/o Chotta Bara Pind, P.S. Kartarpur, District Jalandhar (Rural), age about 28 years, mobile no. 98720-48576, Stated that, I am resident of above said address. My father has died. My mother is not mentally fit. I have two younger brothers. Harmandeep Singh who is residing in my locality, who is keeping bad eyes on me from the last some times. On many occasions, he compelled me to

made physical relations with him. In the intervening night of September, 14/15, 2023 Harmandeep Singh entered in my house by climbing the wall. Who was aware that my parents are not mentally fit and usually my brothers are went out in regard to the work. My brother Kamal Singh is doing the duty of security guard. In the night of 14/15 September, 2023 when Harmandeep Singh son of late Balwinder Singh resident of Chota Bara Pind, P.S. Kartarpur forcibly tried to make physical relations with me, I was preparing tea then I thrown hot water on Harmandeep Singh and he ran away. He threatened me to kill that I do not disclose this thing to anyone. I being helpless, poor and respectable lady, did not give any complaint to the police against Harmandeep Singh. But Harmandeep Singh did not mend his ways. In the intervening night of 02/03/11/2023 at time about 01:45 AM the bolt of the door of my house is loose. He pushed it and entered in the house. He entered in my room and forcibly made physical relations with me and while doing so he made video. On that night my both brothers were not at home. My mother is not mentally fit. When Harmandeep Singh left away while extending threats to me that if I will told to anyone then he will kill me and my family. For the sake of my respect I did not tell to anyone. After 2/4 days by making efforts I went to the house of Harmandeep Singh. Where I met to Harmandeep's mother Paramjit Kaur wife of Balwinder Singh, brother Arshdeep Singh residents of Chota Bara Pind, P.S. Kartarpur and told them all the story. Then his mother and brother said that we already knew all the story. He has prepared your video. He has done right so that you will defame in the society. They had thrown me out from their house and abused and not heard properly to me and do the favour of Harmandeep Singh they used bad words for me. Harmandeep Singh has not only do so and he broke down my engagement also. He sent me my obscene photographs on my whatsapp. Harmandeep Singh has spoiled my life. Strict Legal action may be taken against Harmandeep Singh, Paramjit Kaur and Arshdeep Singh. I come with my brother Kamal Singh and got recorded the statement with my own consent to you, read over, which is correct. Sd/- Lovely complainant above, with Kamal Singh (brother) complainant. Attested Arshpreet Kaur dated 07.12.2023, P.S. Kartarpur, Jalandhar Rural. Police Proceedings.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 08.12.2023. Learned counsel has further submitted,

placing reliance upon Annexure P-3 (instagram chats) and Annexure P-6 (representation filed on behalf of the petitioner), to argue that there was consensual relationship between the petitioner and the victim which turned sour later on & the FIR in question is result thereof. 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 18.03.2024 in Court, which is taken on record.

5. Learned counsel for the complainant has vociferously opposed the grant of regular bail to the petitioner by arguing that the allegations made against the petitioner are serious in nature.

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

7. The petitioner was arrested on 08.12.2023 whereinafter investigation was carried out and challan was presented on 05.02.2024. Total 18 prosecution witnesses have been cited and the culmination of the trial will take its own time. The rival contention of learned counsel for the parties; as to whether there was consensual relationship between the petitioner and the victim & the veracity/weightage required to be attached to the instagram chats (Annexure P-3) and the representation (filed on behalf of the petitioner (Annexure P-6); 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 trial. Nothing tangible 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 18.03.2024 filed by learned State counsel, the petitioner has already suffered incarceration for a period of more than 03 months & is not shown to be involved in any other case.

Suffice to say, further detention of the petitioner as an undertrial is not warranted in the facts and circumstances of the case.

8. 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.

9. 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.

10. Ordered accordingly.
11. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.
12. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(SUMEET GOEL)
JUDGE

March 19, 2024
Ajay

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