

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-12992-2024

Date of decision:19.03.2024

Kuldeep Singh

....Petitioner

V/s

State of Punjab

....Respondent

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. S.K. Choudhary, 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.48 dated 28.05.2023, registered for the offences punishable under Sections 406, 417, 420, 376 & 506 of IPC at Police Station Division No.1, District Pathankot.
2. The case set up in the FIR in question is as follows:-

“Subject: Application against Kuldeep Singh son of Satnam Singh, resident of Khojaki Chak P.S. Narot Jaimal Singh Tehsil and District Pathankot mobile number 8194951310, 9988116975, regarding the rape of a widow woman by false promised, after exploiting her sexually and getting married with someone else. Respected Sir, the request is that I am Aarti Devi widow Vinay Kumar resident of Dera Baba Basant Puri Post Office Sarna Tehsil and District Pathankot. My husband passed away in the year 2019, the above-mentioned Kuldeep Singh came into my life who gave me an illusion that he will marry me, I kept thinking of him as my husband and he kept giving me false assurance that he would marry me soon. He will get married, he also kept doing mental exploitation of mine. My first husband died in an accident, during his accident, the money I got was about 2,50,000 rupees, above-mentioned Kuldeep Singh threatened me and said that if I don't give him the money, then the photographs and the videos taken by me would be made viral on the net and when I asked him for marriage, he told me that I cannot marry you. Now I have come to

know that the above said Kuldeep Singh has taken away a girl of Gurdaspur and he after getting married in the court has applied for police protection. This person has ruined my life and defamed in the society now threatening me that if you try to take any legal action against me then I will kill you and your little child. That first complaint was also filed against him in police station Sadar Pathankot on 26/03/2023. After that, Kuldeep Singh's family and his elder brother Samsher Singh, who was working in UP, left his job and came back and his friend Karan Singh (mobile number-7347451097, 843793109) who he is soldier, used to threaten me on the phone to withdraw the application moved against Kuldeep Singh then Madam SHO made understand Fouji Karan Singh not to threat the girl through phone and thereafter he did not made any phone call to me but he came on leave for a few days to his house and the elder brother of Kuldeep Singh and his friend Fouji went to my house and threatened my mother that where is your daughter and if she do not withdraw the application made by her against Kuldeep Singh then we will pick up your daughter. But till date no action has been taken on the application given by me. The marriage of the above-mentioned person shall be stopped and legal action should be taken against him and Justice be granted to me. Thanking you Aarti Devi widow of Vijay Kumar resident of Dera Baba Basant Puri Sarna tehsil and District Pathankot.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 28.05.2023. Learned counsel has further argued that the prime/private prosecution witnesses namely PW-1 (victim), PW-2 (mother of the victim/complainant) as also PW-3 (father of the victim) have turned hostile & hence, in all likelihood, trial is not likely to culminate into conviction of the petitioner. 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

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to place on record custody certificate dated 18.03.2024 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 28.05.2023 whereinafter investigation was carried out and challan was presented on 19.07.2023. Total 21 prosecution witnesses have been cited and culmination of the trial will take its own time. The rival contention of learned counsel for the parties; regarding the weightage required to be attached to the testimonies of the hostile witnesses i.e. PW-1 (victim), PW-2 (mother of the victim/complainant) and PW-3 (father 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 trial. Nothing tangible has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the remaining 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 09½ months & is not shown to be involved in any other.

The first bail application filed by the petitioner was withdrawn on 14.02.2024 as, at that point of time, victim was yet to be examined as a prosecution witness. The substantial change of circumstance since the withdrawal of the first bail petition on 14.02.2024 is that the prime/private prosecution witnesses have been examined and they have all turned hostile.

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

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.

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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

March 19, 2024
Ajay

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