

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-13663-2024
Date of decision:21.03.2024

Ajaydeep
State of Haryana

V/s

....Petitioner
....Respondent

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Aman Redhu, Advocate for the petitioner.
Ms. Priyanka Sadar, AAG Haryana.
Mr. Parvesh Jaglan, Advocate for the complainant.

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.5 dated 09.01.2024, registered for the offences punishable under Sections 376(2)(n), 323, 506 of IPC at Police Station Women Jind, District Jind.

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

“Subject: Complaint against Ajaydeep son of Balwan Singh village Bohal, Bawani Kheda District Bhiwani Mob.No. 8607670006 and 9053480007 (Govt. Mechanical Diesel Engine Instructor BMCJ Govt. ITI Kunjpura Road) To take the strictest legal action against him for having physical-relations with me on the pretext of marriage, assaulting me, and threatening to kill me and for the protection of the property and providing justice. Regarding the threat to life and property of me and my family from the culprits, the applicant makes the following statement. 1. That the applicant Seema Devi, daughter of Satbir Singh, resident of village Mujadpur, Hansi, Hisar Hall, now residing at Shivpuri Colony, Narwana Road, Jind and there are 8 members in our family. 2. That in January 2022, when I was going to my village, I took a lift from the accused. The accused had asked me for my home address. The culprit told me that he works in a government job and is unmarried, whose address was written in the headset. By taking me into confidence and on the pretext of marrying me and finding me alone, he had physical relations with me at my house. In this way, the accused took me in full confidence he make sexual relations with me. This incident is of May 2022. 4. when I talked

about marriage with the accused, he showed reluctance and flatly refused to marry. 5. That after this When a lot of information was obtained against him in August 2023, he turned out to be married and had 2 children. 6. That the applicant was already married before coming in contact with the accused, which led to the birth of a girl named Samiksha. 7. That When I objected to the fact that I knew the culprit was married, the culprit beat me up and even threatened to kill me made two or three attempts to kill me, and continued to have physical relations with me and kept threatening. 8. The culprit repeatedly beat me for refusing to marry me. And threats were given. 9. That the culprit has made my and my family's life miserable and is threatening me and my family with dire consequences. And threaten that If I will take action against him in any police station or court, he will get me and my family kidnapped by goons and my body will not be found and I will threaten to kidnap my daughter Samiksha, aged about 12 years. That I, the applicant, and my family are in full danger of my life and property from the above-mentioned accused, and if any untoward incident happens to us, the accused should be held responsible. Therefore, I request that strict legal action should be taken against the accused and justice should be provided to me. Sir, it will be very kind of you.”

3. Learned counsel for the petitioner has argued that the petitioner was arrested on 12.01.2024. Learned counsel has further argued that there was consensual relationship between the petitioner and the victim and in this regard he has placed reliance upon an agreement dated 18.07.2023 regarding live-in-relationship (photocopy whereof has been appended as Annexure P-3 with the present petition). It has been further argued that the FIR in question is result of fall out of such consensual relationship. In this view of the matter, learned counsel has prayed for grant of regular bail.

4. Learned State counsel as also learned counsel for the complainant have 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 21.03.2024 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 12.01.2024 whereinafter investigation was carried out and challan stands presented on 01.03.2024. Total 12 prosecution witnesses have been cited and 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 & as to whether the FIR in question is result 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 trial. Nothing perceptible 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 21.03.2024 filed by learned State counsel, the petitioner has suffered incarceration for a period of 02 months and 09 days & 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.

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/Illaq 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

March 21, 2024
Ajay

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