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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-20260-2024 (O&M)

Date of Decision: 30.04.2024

Sundaram

.. Petitioner

Vs.

State of Haryana

..Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Ms. Anu Pal, Advocate for the petitioner.

Ms. Priyanka Sadar, AAG, Haryana.

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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.469 dated 13.10.2023, registered for the offences punishable under Sections 376(2)(n), 406, 506 and 509 of IPC at Police Station DLF, Sector-29, Gurugram.
2. The case set up in the FIR in question (as set out by the petitioner in the present petition) is as follows:-

“To, S.H.O, Sector 29, Gurugram, Subject: Legal action to be taken against the petitioner Sundaram (Mob. No. 6206412818, 9097741638), son of Shambhu sharan, Resident of Tehal, Mahabir place, Beldari Tola, Gaya, Bihar, about being raped on the pretext of marriage, extorting money and threatening to kill. Sir, I, Shalini, Daughter of Shri Laxmidas, Resident of House no. 402, Saraswati Vihar, Chakarpur, District Gurguram, at present resident of Shyam Kunj, B-1 Block, Marti Kunj, Gurugram. I am a peace-loving woman who believes in law and respectfully submit the following request. I am resident of above-mentioned address; I do a private job in Gurugram. That in July 2020, I used to work Geetanjali Salon in Ambience Mall at Gurugram, and used to stay in Kavya P.G. at Saraswati Vihar, Gurugram. In November 2020, I met a boy named Sundaram who was living in the same PG, and we started talking to each other. He told me about his job in a private bank and he engaged me in sweet talks and became friends with me. He told me that he has fallen in love with me

and wants to marry me. That on 15.01.2021 he came to my room and started talking to me. He said that you are very beautiful, and I love you very much and I want to marry you. During that time, he had a physical relationship with me by making a false promise of marriage to me and even after this we met several times, and he kept having a physical relationship with me by making a false promise of marriage. That on 15.02.2021, I left PG and started living in Chakarpur. There also he kept coming to meet me and I told him that if you want to get married then meet my family, I have talked to them about you. On my pressure, he met my family members and said that when I go to the village, I will talk to my family about marriage, thus he started visiting our house also. During this time, he started asking me for money on one pretext or other. On his request, I transferred money from online account to his account several times through my mobile phone. In this way I transferred a total of Rs.3,21,937/- to his account. Using various pretexts, he got all this amount transferred from me to his account between May 2021 and July 2023. Whose screen shot of the online transaction is attached herewith. That in August 2022, my job got shifted to another Looks Salon in AIPL Joystick Mall, Gurugram and I actually started living in a rented flat in Ansal Golden Society, Sector-56. Gurugram. I lived alone there too. There the above mentioned Sundaram used to come to meet me and engage me in his sweet talks and have physical relations with me. When I protested to him that all this was wrong, he used to say that we have to get married so what is wrong in it. When I asked him to marry me, he would make excuses and change the topic. He quarrelled with me several times over this matter and even beat me up. That on 17.01.2023 he came to meet me and said that my mother is unwell, and I will have to go to my village for her treatment and after going there I will also talk about my marriage with my parents and after talking to you will come soon to get married. That after that we kept talking on the phone, he kept saying that I talked about marriage. My mother is not well right now, I will come to meet you as soon as she gets well. That after this the above mentioned Sundaram came to Gurugram on 30.04.2023 and said that I have just come to meet you for a day or two. Mom is not feeling well right now so I will have to go back to the village. Thus, after two days he again went to his village. That after he went to the village, we kept talking to each other on phone and then on 11.06.2023 he called and said that mother's health was very bad and he needed money. On his request, I transferred Rs 50,000/- from my account to his account and after that he stopped talking to me. That we talked on phone on 31.07.2023, I asked him when he was coming to Gurugram to marry me, he started abusing me on phone and quarrelled a lot and said that I will not marry you and asked to stop trying to call me after today. If you complained or reported anything about him, he said, I have such photos and messages of yours, I will make them viral and

defame you and will leave you speechless. I have no information that he has any such photos or messages of mine. I do not know when he clicked the photo. On his asking, I came to know about it and told me that he will kill me and my family. That the above accused gave a false promise of marriage with me while living with me and by July 2023, I transferred approximately Rs 3,21,937/- to his account through online transaction whose details are attached herewith. Sir, the above-mentioned person has raped me on the pretext of marriage and has fraudulently embezzled all my earnings and is now threatening me to kill, due to which my life is also in danger. Therefore, in view of all the above facts and a strict action might be taken against the above-mentioned accused after registering the case and I would be thankful. I am giving a typed complaint in front of legal advisor Sushma. Dated 12.10.2023, applicant Shalini, daughter of Laxmi Das, Resident of house no 402, Saraswati Vihar, Chakkarpur, District Gurugram. At present resident of Shyam Kunj, B-1 Block, Maruti Kunj, Gurugram. Mobile No. 8527235248, aged 30 years. Attested by - Sushma Legal Advocate.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 21.11.2023. Learned counsel for the petitioner has further argued that substantial prosecution evidence already stands recorded and hence there is no chance of the petitioner interfering with the prosecution evidence. Learned counsel for the petitioner has further argued that the nature of the case as also the evidence brought on record clearly indicate that there was a consensual relationship between the petitioner and the victim which turned sour later on & the FIR in question is a result thereof. Learned counsel for the petitioner has further argued that the petitioner is required to lead extensive defence evidence in the matter and hence culmination of the trial will take time. 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 21.11.2023 whereinafter investigation was carried out & challan was presented on 05.12.2023. It is not in dispute that substantial prosecution evidence has already been led. The rival contention of the learned counsel for the parties; as to whether the case in hand is a result of fall out of consensual relationship between the petitioner and 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 cause of trial. The petitioner is stated to be a young man aged about 28 years with no criminal antecedents. As per the custody certificate dated 26.04.2024 filed by the learned State counsel, the petitioner has suffered incarceration of more than 5 months. 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/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.

30.04.2024

(SUMEET GOEL)

JUDGE

Jasmine Kaur

Whether speaking/reasoned

Whether reportable

Yes No

Yes No