

CRM-M-32752 of 2024

1

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

229

CRM-M-32752 of 2024

DATE OF DECISION :- 17.07.2024

Sajid Ali

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Dr. Pankaj Nanhera, Advocate
with Mr. Pradeep Duhan
and Ms. Mamta S. Prabhakar, Advocates 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.83 dated 28.02.2024, registered for the offences punishable under Sections 376(2)(n), 406 and 506 of IPC at Police Station SGM Nagar, District Faridabad.
2. The case set up in the FIR in question (as set out in the present petition by the petitioner) is as follows:-

“Statement of SXXX, age: 40 years daughter of Mamad Khan, permanent resident of Rampur Post, Bharamau Tehsil Rasulaba, Police Station Rasulabad, District Kanpur at current residing as tenant at House No. 2258, Block B, Street No. 11, near Holy Faith School, 25 Foot Road, SGM Nagar, Faridabad, aged about 40 years, Phone No.: 8586082904, Education: Illiterate. I state that I am residing at the above-mentioned address. I am a divorced woman. I used to work in a private company, but for the past approximately 4 months, I have been staying at home. In 2016, I came into touch with Sajid Ali son of Ahmad Jahan,



resident of Village Khanpur, Lakkhi Post Akka Dilari Moonga Pandey, District Muradabad, through Facebook, and we exchanged phone numbers. After that, we continued to communicate over the phone. In 2017, Sajid Ali came to meet me for the first time at my rented room at House No. 2303, Street No. 10, near Holy Faith School, 25 Foot Road, SGM Nagar, Faridabad and on the promise to marry made physical relations with me against my will. He continued to visit me at my rented room and made false promises of marriage and made physical relations with me against my will until January 11, 2023. During this period, he also borrowed INR 1,80,000 from me, sometimes citing illness and other times family issues as reasons. After January 11, 2023, Sajid Ali stopped visiting me and gradually reduced phone communication. Whenever I asked to perform marriage, he would make excuses to avoid and when Sajid started meeting me less and reduced phone communication, I began to suspect him. I conducted my own inquiry about Sajid and came to know that he got married in 2021 and even has a son. When on phone, I confronted Sajid about his marriage, he got angry with me. When I asked Sajid to return the money I had given to him and to marry me, he refused to return the money and denied marrying me. When I told that I will take police action against him, Sajid threatened to kill me and my family. Out of fear, I have not taken any action against Sajid until now, even though he continues to threaten me over the phone. I am now fed up with Sajid's behavior. Sajid has done very wrong by me. Legal action should be taken against Sajid. I have given my statement without any coercion or fear, and it is correct. Sd/-XXXXXX.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 10.04.2024. Learned counsel for the petitioner has further argued that that there was consensual relationship between the petitioner and the victim which turned sour lateron and hence the FIR in



question was registered against the petitioner. Learned counsel for the petitioner, in order to substantiate his argument has referred, in extenso, to the Whatsapp chat (copy whereof has been appended as Annexure P-2). 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 15.07.2024 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 10.04.2024 whereinafter investigation was carried out and challan stands presented on 06.06.2024. Total 14 prosecution witnesses have been cited and culmination of the trial will, but course, 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 which turned sour lateron and the FIR in question is result thereof as also the veracity/weightage required to be attached to the Whatsapp chat (copy whereof has been appended as Annexure P-2 with the instant petition); 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 15.07.2024 filed by learned State counsel, the



petitioner has already suffered incarceration for more than three 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.

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 cell-phone 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/Illaqha 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.



CRM-M-32752 of 2024 **5**

- 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

17.07.2024
P.Singh

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No