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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-36186-2024 (O&M)

Date of Decision: 02.08.2024

GURDEEP THAKUR

.. Petitioner

Vs.

STATE OF PUNJAB AND ANOTHER

..Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Madan Sandhu, Advocate for the petitioner.

Mr. Yuvraj Singh Tiwana, Asstt. A.G., Punjab.

Ms. Sulochana Borah, Advocate for respondent No.2.

...

SUMEET GOEL, J. (Oral)

The instant petition has been filed on 24.07.2024 under Section 439 of Cr.P.C., 1973 for grant of regular bail.

As per the judgment rendered by this Court titled '*Abhishek Jain Vs. State of U.T. Chandigarh and another*' (CRM-M-31808-2024) **2024PHHC085784**, the instant petition is not maintainable under Section 439 of Cr.P.C., 1973. However, keeping in view the entirety of facts and circumstances of the case especially that the instant petition pertains to regular bail, the instant petition is directed to be considered as a petition under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023.

1. Present petition has been filed for grant of regular bail to the petitioner in case bearing FIR No.41 dated 12.06.2024, registered for the offences punishable under Sections 376 and 506 of IPC and Section 6 of POCSO Act, 2012 at Police Station Daba, Ludhiana, District Ludhiana.

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2. The case set up in the FIR in question (as set out by the petitioner in the present petition) is as follows:-

“Copy of the statement of Harmandeep Kaur D/o Sandeep Singh Ro House No.295, Gali No.4, Ward No.64, Gurpreet Nagar, Dabba, Ludhiana aged about 17 years. Stated that I am the resident of the above-mentioned address. My father Sandeep Singh Slo Balwinder Singh Ro House No.295, Gali No.4, Ward No.64, Gurpreet Nagar, Dabba, Ludhiana is working as an Electrician and my mother is doing Hosiery in home. We are two siblings. My younger brother Jashanpreet Singh is studying in 10th class and I am studying in 12th class at Krishna Convent School, Loharar Road, Ludhiana. One and a half year ago I developed a conversation with Gurdeep Thakur S/o Ramesh Thakur R/o Near Krishna Convent School, Loharar Road, Ludhiana (Mobile No.7719719516) Thereafter, through Intsagram. exchange we our mobile numbers. During our talks, Gurdeep Thakur use to say that he will marry me and I was also ready to marry him. Thereafter, we kept on meeting on different occasions. During this period he used to say to made physical relations with him but I kept on refusing. In the month of October 2023, Gurdeep Thakur took me In the basement of a shop at backside of Teja School, Chimni Road, Shimlapuri and forcefully made physical relations with me under the pretext that 'he will marry then, what is the problem for having physical relation'. After that he left me at Quality Chowk and I came back to my house. After that Gurdeep Thakur kept on taking me with him and use to make physical relations with me. Gurdeep Thakur came to my house and told to my father to marry me. After that my father had a conversation with the father of Gurdeep Thakur. Both the families agreed for this marriage. In this manner both the families started visiting each other house. I came to know some wrong facts about Gurdeep Thakur, I asked about the same to Gurdeep Thakur. On which he started a fight with me and raising wrong allegations on me. Thereafter Gurdeep Thakur took a rented accommodation nearby to Gill Chowk, where he use to accompany me and forcefully make physical relations with me. On 06.06.2023 Gurdeep Thakur took me to the room of Gill Chowk, there he made physical relations with me after having intoxicants. Due to which I was very ill- treated. On 07.06.2024 I telephonically called the father of Gurdeep Thakur and told about his deeds. For this reason Gurdeep Thakur in a fit of anger threatened me that I do not want to solemnize marriage with you and if your family or my family made any pressure on me ot any action by you, then you and your parents will be killed and so I was in fear and on 11.06.2024 I told the matter to my mother Mandeep Kaur Dated 12.06.2024 I with my father Sandeep Singh and mother Mandeep Kaur in their presence, came to you and recorded the



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statement. Legal action be taken accordingly against above said Gurdeep Thakur, statement is recorded, it is read and correct. Sd/ Harmandeep Kaur (in English) verified Sd/ Mandeep Kaur (in English) verified- Usha Rani, Insp/1110/LDH P.S Daba Ludhiana 12.06.2024. XX”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 12.06.2024. Learned counsel for the petitioner has further argued that there was consensual friendship between the petitioner and the victim and subsequently there was some misunderstanding between their families on account of which the FIR in question was got registered. Learned counsel for the petitioner has referred to and relied upon a written compromise dated 17.06.2024 (copy whereof has been appended as Annexure P-1 with the instant petition), to argue that the respective families have now entered into a settlement as well. 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. Learned counsel for the complainant ratifies the factum of compromise having been entered into between the parties.

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

7. The petitioner is in custody since 12.06.2024. The rival contention of the learned counsel for the parties; as to whether the FIR in question was got registered on account of any misunderstanding and the veracity/weightage required to be attached to the written compromise dated 17.06.2024 (copy whereof has been appended as Annexure P-1 with the instant petition); shall be gone into during the course of trial, if the occasion

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rival contentions, at this stage, lest it may prejudice the investigation/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. The petitioner is a young man aged 18 years. As per the custody certificate dated 31.07.2024 filed by the learned State counsel, the petitioner has suffered incarceration for more than 01 month and 17 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 present case.

8. 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

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Station and shall not change his cell-phone number without prior permission of the trial Court/Illaqa 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.

02.08.2024
Jasmine Kaur

(SUMEET GOEL)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No