



CRM-M-36783-2024 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-36783-2024 (O&M)

Date of Decision: 06.08.2024

BALRAJ SINGH

.. Petitioner

Vs.

STATE OF PUNJAB

..Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. H.S. Baath, Advocate for the petitioner.

Mr. Anup Singh, AAG, Punjab.

...

SUMEET GOEL, J. (Oral)

The instant petition has been filed on 19.07.2024 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.0009 dated 03.02.2024, registered for the offence punishable under Section 376-A of IPC at Police Station Phase 8 (Women Cell), Mohali.

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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:-

“It is submitted that I Dhanveer Kaur, mob. No. (73473-03955) D/O Krishan Singh, R/O Aalam wala, Teh. Malout, Distt. Shri Muktsar sahib, presently residing V.P.O Sohana, Distt. SAS Nagar Mohali and for the last two years residing on the above said address. That Balraj Singh S/O Harmesh Singh R/O H/NO.213, Gali no. 4, Dasmesh nagar, Ward no. 5, Jalalabad, presently-V.P.O. Sohana, Distt. SAS nagar, Mohali residing on the above said address for the last five to six yrs. From December 2021 to August 2023 we live together but from December 2021 to august 2022 we lived in Sandhu House near Rattan collage, thereafter from December 2022 to August 2023 we lived in Narula PG Sohana and presently also residing there. But Balraj Singh S/o Harmesh Singh from August 11,2023 on the pretext that his grand father is sick went to Jalalabad and he was returned to on 13-08-2023 but he did not came back and the last conversation with him taken place on 14-08-2023 telephonically and thereafter there was no contact of mine with him and he switched off his phone. In fact Balraj s/o Harmesh singh used to promise me to marry and also included his parents in the same but later on the matter of marriage was not finalized as his family was not agree. Due to our living together our physical relations got developed and same were running smoothly and there used to be talked with his family also. From 14-08-2023 I trying to make contact with his family to get talked with Balraj but they are not responding to same by saying that from 10-08-2023 missing and the responsibility of missing they are putting on me which is totally false. From 14-08-2023 neither Balraj singh come to me nor contacted telephonically. So it is submitted Balraj sing s/o Harmesh singh and his family committed fraud with me. Whereas Balraj singh under the pretext of marriage maintained physical relations with me so it is submitted that necessary legal action against Balraj singh and his family members may be taken. I may be met with justice. Even today I am ready to marry with him. I will be thankful.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 06.05.2024. Learned counsel for petitioner has further argued that a bare perusal of the FIR itself reflects that there was consensual relationship between the petitioner and the victim for multiple years which turned sour later on due to supervening circumstances & hence the

petitioner was not able to solemnize marriage with the victim & hence the

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petitioner has been falsely implicated into the FIR in question. 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 06.05.2024 whereinafter investigation was carried out & challan was presented on 01.08.2024. Total 13 prosecution witnesses have been cited and culmination of the trial will take its own time. The rival contention of the learned counsel for the parties; as to whether there was consensual relationship between the petitioner and the victim which turned sour later on due to circumstances beyond the control of the petitioner as also as to whether the petitioner has been falsely implicated into the FIR in question; 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 the custody certificate dated 05.08.2024 filed by the learned State counsel, the petitioner has suffered incarceration for about 3 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 present case.

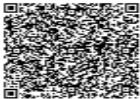
7. In view of totality of factual matrix of the present case, the instant petition is allowed. Petitioner is ordered to be released on regular

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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.



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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.

06.08.2024
Jasmine Kaur

(SUMEET GOEL)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No