



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

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**CRM-M No.38328 of 2024
Date of decision : 13.8.2024**

Atul Sharma**.....Petitioner****Versus****State of Haryana****.....Respondent****CORAM: HON'BLE MR. JUSTICE SUMEET GOEL****Present: Mr. Anmol Dutt Sharma, Advocate, for the petitioner****Ms. Priyanka Sadar, AAG, Haryana**

SUMEET GOEL, J. (ORAL)

1. Present petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') for grant of regular bail to the petitioner in case FIR No.86 dated 18.4.2024, under Sections 376 (2)(n), 406, 506, 377 and 380 IPC, registered at Police Station New Colony, Gurugram.

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

"The complainant is a Divorcee as she was granted divorce in 2019 and is having a son of 12 years from the first wedlock. In March 2023, the complainant met with the accused through Jeevansaathi.com, who assured her to marry her, and they both started in live-in relationship at the above-mentioned address from the last one year. 2. That when the complainant asked the accused to marry, he avoided the same under one pretext or the other and now she came to know that the accused is already married, and he has refused to marry her. The accused also mortgaged her 38 gms. Gold with Muthoot Finance, Dwarka for sum of Rs. 1,65,000/- without the consent and permission of the complainant, which came to know her on



07.02.2024 when he left the company of the complainant. 3. That thereafter on the persistent request of the complainant, the accused agreed to release the mortgaged gold from Muthoot Finance and on 24.03.2024 the said gold was released by her paying a sum of Rs. 1,65,000/- and other charges to Muthoot Finance, Dwarka which the accused also assured to return the same to her at the earliest. 4. That on 25.02.2024, the accused picked-up quarrel with the complainant on which the police help was sought on 112 number and a settlement was reached between the complainant and accused that he will marry her on 26.04.2024 or in the week and also to return the said amount to her. But the accused neither married with the complainant, nor returned the said amount to her till date. 5. That on 05.03.2024, the accused after picking up quarrel with the complainant and threatening her, tried to runaway from the house on which she again called the police through 112 number as he was giving threat to her that he will leave her and he will not return the amount since 04.03.2024. In this way, the accused is harassing, torturing and threatening the complainant for last one year by making physical relation with her on the false excuse of marrying her, beatings to her. The Complainant has already made complaint dated 05.03.2024 to SHO, New Colony, Gurugram in this regard. 6. That on 03.04.2024 which the complainant went to her office and her son went to his school, the accused fled away from the house by taking away gold 50 gms. Amounting to Rs. 4,00,000/- and Rs. 55,000/- cash on the absence of the complainant. When the complainant tried to call the accused he threatened her that he will kidnap her son and also to kill her through some unsocial elements. As such, the family members of the accused are also involved in this conspiracy with him. 7. That the complainant is a poor lady having a minor son of 12 years and so, she has apprehension of serious danger to her life and property along with her minor son from the accused. 8. By the above said act conduct of the accused, the accused by hatching criminal conspiracy with his family members have committed the criminal offence under sections 323/380/365/406/376(2)(n)/506/120-B of IPC for which they are jointly and severely liable for the same as per law. It is therefore prayed that the present matter may kindly be investigated, and a FIR be also registered against the accused and his family members who involved in the present matter as per law and the gold 50 gms and money of Rs.1,65,000/- and Rs./55,000/- be also recovered from the accused and a copy of the complaint be also provided to the complainant as per rules. Submitted by Sd/ Saumya Mishra d/o Sh. Shyam Krishna Mishra."



3. Learned counsel for the petitioner has argued that the petitioner is in custody since 19.4.2024. Learned counsel has further argued that there was consensual relationship between the petitioner and the complainant since the year 2023 which turned sour later on due to supervening circumstances and, thus, the petitioner has been falsely implicated in the FIR in question.

Learned counsel for the petitioner has referred, in extenso, to the transcripts of call recording between the complainant and the petitioner's wife (copy whereof has been appended as Annexure P-2 with the instant petition) as also whats-app chat between the complainant and the petitioner (copies whereof have been appended as Annexures P-3 and P-4 with the instant petition) to argue that the factum of the relationship between the petitioner and the victim came to the knowledge of the wife of the petitioner and even thereafter, the wife of the petitioner and the victim were interacting with each other frequently. Thus, regular bail is prayed for.

4. Learned State counsel has opposed the present petition by 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 9.8.2024 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 19.4.2024 wherein after investigation was carried out and challan stands presented on 14.6.2024.



Total 24 prosecution witnesses have been cited and culmination of 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 which turned sour later on due to supervening circumstances, as to whether the petitioner has been falsely implicated in the FIR in question on account of such consensual relationship turning sour as also the weightage/veracity required to be attached to the transcripts of call recording between the complainant and the petitioner's wife (copy whereof has been appended as Annexure P-2 with the instant petition) and the weightage/veracity of the whatsapp chat between the complainant and the petitioner (copies whereof have been appended as Annexures P-3 and P-4 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 9.8.2024 filed by learned State counsel, the petitioner has already suffered incarceration for a period of 3 months and 20 days and 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/Illaqa 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.

(SUMEET GOEL)
JUDGE

13.8.2024
Ashwani