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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-37074-2024 (O&M)
Date of Decision: 09.09.2024

ARUN KUMAR GAUTAM

.. Petitioner

Vs.

STATE OF HARYANA AND ANOTHER

..Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. P.S. Jammu, Advocate for the petitioner.

Ms. Priyanka Sadar, AAG, Haryana.

...

SUMEET GOEL, J. (Oral)

1. Present petition has been filed under Section 483 BNSS for grant of regular bail to the petitioner in case bearing FIR No.58 dated 08.02.2024, registered for the offences punishable under Sections 376(2)(n) and 506 of IPC at Police Station Kotwali, District Faridabad.
2. The case set up in the FIR in question (as set out by the petitioner in the present petition) is as follows:-

“To the SHO Kotwali NIT Faridabad, Sir, it is stated that I Neksi Devi @ Kiran Wife of Sant Kumar daughter of Phool Singh Punjabi resident of Village Haran, P.S Haran, District Agra, U.P at present residing as tenant in house no 1c-30 near Singh Sabha Gurudwara NIT Faridabad. That I am 37 years old, I am married and have two children, that my husband Sant Kumar took Alcohol every day and never use to give money, for house-hold purposes. He visited me, rarely. I had opened an account on ShaddiApp.com, that I had received a message on my account from Arun Kumar Gautam, who expressed his intention to marry me. I had talks with Arun Kumar Gautam on his phone number 91-8011715787. Arun Kumar claimed to be an army officer and that he would keep me and my children happy after marriage. On dated 25.06.2023 Arun Kumar gave a call to me and informed that he was staying in Oyo Hotel NIT Faridabad near to my house and that he is on a month long

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leave. I was reluctant to meet him since I had not discussed about us both with my family and asked him to go back. However that on dated 1.July.2023 Arun Kumar Gautam called to me and asked to meet him in Oyo Hotel, where he for the first time forcefully committed sexual intercourse with me. Arun Kumar Gautam promised me that he will marry me and that you do not tell anyone about this. Arun Kumar Gautam informed me that he is a Divorcee. On 24.July.2023 Arun Kumar Gautam took me to Faridabad Court and got executed an Affidavit stating that he will marry me, after some months when he will get leave from duty. On 25.July.2023 he left for duty in Sri Nagar. We use to talk to each other for 2 months thereafter. He kept me as his wife with a promise to marry me in a rented accommodation as well in House no. HEW11-10 NO 01 Market NIT near Sachdeva Juice Corner there also Arun Kumar use to indulge physically with me. On 19.Sep.2023 Arun Gautam called to me and said that he was not a divorcee and he would not get married to me. That when I call Arun he threatens to me that you either leave me or else I will come to Faridabad and kill you. That strict legal action be taken against Arun Kumar Gautam Son of Naubat Ram resident of School Dilliya Village Talval, District Ghazipur, U.P. SD. Neksi. Mobile no 98731-75613 Dated 08.02.2024."

3. *Dasti* process was issued qua respondent No.2 in the matter.

Office note indicates that respondent No.2 stands served. However, none has caused appearance on her behalf.

4. Learned counsel for the petitioner has argued that the petitioner is in custody since 02.05.2024. Learned counsel for the petitioner has submitted that a perusal of the FIR when evaluated in the background of various payments made by the petitioner (details whereof have been appended as Annexure P-2 with the instant petition) as also the whatsapp chat/SMS (copy whereof has been appended as Annexure P-3 with the instant petition) as also photographs (copies whereof have been appended as Annexure P-4 with the petition) would reflect that there was consensual relationship between the petitioner and the victim which turned sour later on and on account of the same, the petitioner has been falsely implicated into

the FIR in question. Thus, the regular bail is prayed for.



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5. 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.

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

7. The petitioner was arrested on 02.05.2024 whereinafter investigation was carried out & challan was presented on 12.06.2024. Total 15 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 and it is on this count that the petitioner has been falsely implicated into the FIR in question; the veracity/weightage required to be attached to the aspect of payments having been made by the petitioner to the victim as also the veracity/weightage required to be attached to the photographs/whatsapp chat relied upon by the petitioner; 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 06.09.2024 filed by the learned State counsel, the petitioner has suffered incarceration for more than 04 months and 05 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.

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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 b 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/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



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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.

09.09.2024
Jasmine Kaur

(SUMEET GOEL)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No