

**CRM-M-37605 of 2024** 1**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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**CRM-M-37605 of 2024
DATE OF DECISION :- 09.08.2024****Gaurav Tyagi****...Petitioner****Versus****State of Haryana****...Respondent****CORAM: HON'BLE MR. JUSTICE SUMEET GOEL****Present:-** Mr. Johan Kumar, Advocate for the petitioner.

Ms. Priyanka Sadar, AAG, Haryana.

SUMEET GOEL, J. (Oral)

The instant petition has been filed on 31.07.2024 under Section 439 of Cr.P.C, 1973 for grant of regular bail.

As per the judgment rendered by this Court titled '*Abhishek Jain Versus State of U.T. Chandigarh and another*' (CRM-M-31808 of 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 BNSS, 2023.

1. Present petition has been filed for grant of regular bail to the petitioner in case bearing FIR No.35 dated 12.04.2024, registered for the offences punishable under Sections 328,34,506 [376(2)(n) added later on], [376-D deleted during investigation] of IPC at Police Station Ballabgarh, 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:-



“That I Priya alias Archana D/o Sh. Nannu R/o H. No. 1000 Block C Sector-7 Faridabad Haryana and presently I am residing at Sector-10 Faridabad. That I belong to a poor family. That I got married on dated 10.04.2017 with one person namely Lakhan, and due to some reasons, the said marriage could not survive and in the year of 2021, I got divorce from above mentioned Lakhan in the Sector-12 Faridabad Court. That in the year 2021 after obtaining divorce I started doing job to earn my livelihood During my job I met with one person namely Aman Paswan s/o Shambhu Paswan R/o H.no. 1802/4 Parsadi Colony, Kotla, Mubarakpur, Lodhi Road, New Delhi, Mob no. 89203-70428. After sometime we became friends. The accused Aman Paswan had assured me to get marry and physically exploited me. On dated 10.09.2023 the above-mentioned accused took me into the room an OYO Hotel and plotted the marriage by putting Mangalsutar and by putting Sindoor. Due to which I trusted that the above said accused is ready to marry me and the accused assured me that he will marry me in front of the relative by following due rites and rituals and he will take me to his home and I believed his false promises. By considering these things, Aman Paswan made physical relations with me from June 2021 till February 2024 and he physically exploited me, that in the month of June 2023 I lost my job from the old place then accused Aman Paswan sent me to another company situated at Sector-6 Ballabgarh. There I met a person namely Gaurav Tyagi (mob no. 7011863330) who told me that he is friend of Aman Paswan and helped me for the job and in July 2023 he called me to his house for company related work where Gaurav Tyagi added intoxicant into my cold drink and forcefully made physical relation with me and he also photographed and video graphed the said act. Thereafter, when I complaint about the said incident to Gaurav Tyagi then Gaurav Tyagi showed my obscene photo and video on his phone, and told me that if I lodge any complaint regarding it then he would not spare me to show my face to anyone and he will defame me by uploading these obscene photos and videos on social media and he will also show these photos and videos to Aman Paswan. Due to which I will not



able to marry Aman Paswan and further said that whenever he will call me, then I have to be with him. After hearing all this, I got frightened that it will destroy my future and to save my future I became victim of physical abuse by Gaurav Tyagi from July 2023 till January 2024. Similarly, Gaurav Tyagi took Rs.20,000/- from me by blackmailing and when I refused to give more money than he threatened me that if I would not give more money than he will make my obscene photo viral, and he would not leave me worth showing my face. That both the above-mentioned accused hatched a conspiracy in collusion and consultation with each other of which I became a victim and the accused continued to physically exploit me till February 2024 and when I asked the Aman Paswan for the marriage then he told me that he has seen the photographs of mine with Gaurav Tyagi therefore, he cannot marry me and now I will be her mistress only If I agree to this then I can stay otherwise it is my choice. That I have blocked both the accused from my phone, WhatsApp, Facebook etc., now the accused are blackmailing me from several new numbers and they are threatening me to kill that I have become fed-up. Therefore, it is requested to you that to take legal action against the said accused for doing injustice to me, physically abusing me on the pretext of marriage, for making obscene photos and videos by giving me intoxicants and blackmailing me and both the accused hatched a conspiracy to physically exploit me and kill me. Therefore, a strict legal action may kindly be taken against the both accused. Thankyou Sd/- Applicant Priya alias Archana D/o Sh. Nannu R/o H. No. 1000 Block C Sector-7 Faridabad Haryana and presently residing at Sector-10 Faridabad Mob no. 97116-19544.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 13.04.2024. Learned counsel has further argued that, infact, there was consensual friendship between the victim and co-accused namely Aman Paswan and the said relationship fell apart later on & the petitioner has been falsely implicated into the FIR in question on account of his being friend



of Aman Paswan. Learned counsel for the petitioner has further referred, in extenso, to the response given by the victim to a notice under Section 91 of Cr.P.C on 21.04.2024 that the petitioner (herein) had not made any photos/videos of the victim and she had made this averment in the FIR out of anger; a supplementary statement recorded by the police on 21.04.2024 of the victim wherein she has reiterated this stand as also the statement dated 21.04.2024 recorded by the police of Gian Singh (brother of the victim) who has also made a statement on similar lines. 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 08.08.2024 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 13.04.2024 whereinafter investigation was carried out and challan stands presented on 21.05.2024. Total 17 prosecution witnesses have been cited and culmination of trial, but of course, will take its own time. The rival contention of learned counsel for the parties; as to whether there was a consensual relationship between the victim and co-accused namely Aman Paswan which fell apart due to supervening circumstances as also whether the petitioner (herein) has been falsely implicated into the FIR in question on account of his being a friend of co-accused Aman Paswan & the weightage required to be attached to the response of the victim under Section 91 of Cr.P.C, supplementary statement made by the victim on 21.04.2024 before the police as also statement of Gian Singh (brother



of the victim) made before the police on 21.04.2024; 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 08.08.2024 filed by learned State counsel, the petitioner has already suffered incarceration for a period of 03 months and 26 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 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/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.
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

09.08.2024

P.Singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No