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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-42338-2024 (O&M)

Date of Decision: 04.09.2024

GURDIT SINGH

.. Petitioner

Vs.

STATE OF PUNJAB

..Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Harneet Singh Oberoi, Advocate for the petitioner.

Mr. Anup Singh, AAG, Punjab.

...

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.42 dated 28.03.2023, registered for the offences punishable under Sections 376, 354, 354-B and 506 of IPC corresponding to Sections under New Act i.e. under Sections 64, 74, 76 and 351(2) BNS Act, 2023 read with Sections 10 and 6 of POCSO Act, at Police Station Shambhu Kalan, Patiala.

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

"At this time a statement Ravneet Kaur daughter of Talwinder Singh resident of village Basma Police Station Shambhu District Patiala age about 18 years Mob No: 8146236148 written by SI Seema Giri 42/PRT Police Station Sambhu for Crime under sections 354, 354-B, 506 I.P.C. and 10 POSCO Act against Gurdit Singh son of Sukhwant Singh and Labh Singh son of Gurnam Singh resident of village Basma was brought to police station by HC Sukhwinder Singh 1329/Pt. Punishment of which is jail," statement Ravneet Kaur daughter of Talwinder Singh resident of village Basma police station Shambhu district Patiala aged about 18 years Mob No: 8146236148 stated that I am a resident of the said address and

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I study in 12th class Government Senior Secondary School at Banur. We a four siblings I am the eldest, after me mehakdeep kaur, Sakhipreet Kaur and my youngest brother Gurnoor Singh. My father works as a truck driver and he often goes out of Punjab by truck for work. Even now my father has gone to UP and Bihar with his truck and my mother Lavjit Kaur is a housewife. About two and a half years ago (year 2020 month September/October) When I was studying in Stellar International School Village Basman Thana Shambhu in ninth standard then I was about 15 and a half years old then I was seeing Avneet Singh resident of village Buta Singh Wala who was in tenth standard in my own school. Gurdit Singh, son of Sukhwant Singh, resident of village Basma, who is my uncle's boy (brother) in my distant relation, who was a friend of Avneet Singh. Every time he used to call me at his house at village Basma to make me meet with Avneet singh, but every time Avneet Singh was not present there. Taking advantage of the opportunity, Gurdit Singh did indecent acts with me without my consent and threatened me that if you mention this to anyone, I will tell your family about your relation with Avneet. Similarly Gurdit Singh By oppressing me, from my mobile brand Vive Y-20 my nude pictures and videos were made and by threats made me send them through WhatsApp from my phone number 62390-35931 to phone number 8146236148. At that time I had deleted it from my phone, but after some time I came to know from my friends that Gurdit Singh had sent my objectionable videos to WhatsApp groups and Instagram of the boys and girls of our village. Neither I have those I objectionable video now nor i know through which Instagram and which WhatsApp these videos have gone viral, but I came to know about it only from my friends. After that, about 6 months ago from today, I received a phone call from Labh Singh, son of Gurnam Singh, a resident of village Basma. From number 97816-11137, on my phone number 8146236148 and WhatsApp messages started coming that talk to me and come and meet me. I have your objectionable videos. When I refused to his demands he threatened to make the videos viral. I was very upset, so my mother Lovejit Kaur sensed my trouble, so I told the whole truth to my mother, then my mother told me that we should take legal action against these bad people. So me and my mother were coming to Shambhu police station, and we met with you at Tepla Morr with the police party. We made a statement to you and have read it and atest it to be correct. Deponent Sd/- Ravneet Kaur.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 06.12.2023. Learned counsel for the petitioner has submitted that the prime prosecution witnesses, namely, the victim as also



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mother of the victim (when examined as PW-1 and PW-2 respectively) have turned hostile & hence in all likelihood the trial is not likely to culminate into conviction. Thus, the 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.

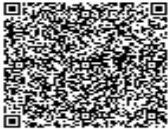
6. The petitioner was arrested on 06.12.2023 whereinafter investigation was carried out & challan was presented on 04.02.2024. Total 17 prosecution witnesses have been cited out of which 6 already stand examined. It is not in dispute that the prime private prosecution witnesses, namely, the victim as also mother of the victim (when examined as PW-1 and PW-2 respectively) have turned hostile. The rival contention of the learned counsel for the parties; as to the weightage required to be attached to the testimony of the hostile witnesses; 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. The instant petition is the second regular bail petition preferred by the petitioner. The first one was withdrawn by the learned counsel for the petitioner with liberty to file afresh on the same cause of action after appending thereto a copy of the FIR in question. Thus, this Court finds no impediment in entertaining the present second regular bail petition. As per the custody certificate dated 03.09.2024 filed by the

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learned State counsel, the petitioner has suffered incarceration for more than 08 months and 13 days. 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 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.



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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.

04.09.2024
Jasmine Kaur

(SUMEET GOEL)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No