



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

206

**CRM-M-44812 of 2024
DATE OF DECISION :- 13.09.2024**

Akash**...Petitioner****Versus****State of Haryana****...Respondent****CORAM: HON'BLE MR. JUSTICE SUMEET GOEL****Present:-** Mr. Ritesh Tomar, Advocate for the petitioner.

Ms. Mahima Yashpal, DAG, Haryana.

SUMEET GOEL, J. (Oral)

1. Present petition has been filed under Section 483 of BNSS, 2023 for grant of regular bail to the petitioner in case bearing FIR No.52 dated 14.05.2024, registered for the offences punishable under Sections 34,354-D,376(2)(n),406 of IPC (Sections 506 & 384 of IPC added later on) at Police Station Women, 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:-

Statement of Payal daughter of Surendra Mohan Pasi, resident of 3852, NIT 3 No. SGM Nagar, Street No. 1, Faridabad, aged 39 years, qualification 12th, Mobile No. stated that I 9354496996, am resident of the above mentioned address. I am divorced, I have 2 children, I do a tele calling job. My Company name was Ekal, which is located in Ajaurandha, Faridabad. When I was working in Ballabgarh in 2022. When my one client Lucky purchased a plot through me. A friend of Lucky, who is working with him in his Company. Lucky gave my phone number to Aakash and Aakash use to talk to me on



phone and Aakash son of Harinarayan Singh, resident of Juniyabad, Street No.2, Near Govt School, Manesar, Gurugram, he come to meet me after two months on 22.08.2022 in Ballabgarh and he said me on phone call that I have come to know that today is your birthday and I want to meet you. Aakash had called me to meet him at NH-2, OYO Hotel. I said ok. I have come to meet you and I went to the hotel to meet Aakash. There Aakash told me that I like you. I want to marry you, and after that Aakash started forcing himself on me. Even after my refusal, he had made physical relations with me, and I told Aakash that you have done wrong to me. This has not happened well with me. Then Aakash said that I will marry you and I came to my house and Aakash went to his home. We kept talking on the phone. By Aakash on 27/4/2023 Came to Ballabgarh and stayed in H.N.2, OYO Hotel and called me also in the hotel and said that I have some work from you. I went to meet Aakash and Aakash started telling me that the condition of my house is bad. I need some money. I said I don't have it yet. After that Aakash started forcing himself on me and had made physical relations with me without my consent and Aakash told me that I had made a photos and videos of both of us. If you tell anyone about this, I will make these photos and videos viral. Saying all this, Aakash left the hotel and now you have given me 2 lakh rupees otherwise I will make them viral. I have made online payment to Aakash many times and also given cash. By threatening me with the threat of making my photos and videos viral, also made a credit card on my ID. IndusInd Bank One card should also be made, both these cards are with Aakash and Aakash has transferred through these credit cards only. Even after doing all this, Akash sent two nude photos of us and a video from his phone number 7048946039 to my phone number 9354496996, which even before I could watch, Aakash deleted the video from his side and I have the photo. I would get calls from different mobile numbers and would abuse me



and would also abuse me through messages on WhatsApp. When I asked, they said that they are friends of Aakash, he has given us your phone number and Aakash also sent your nude photo and video, we have them and Aakash said that you do business, if you did not come to us, then we will also make your photos and videos viral. My photos and videos should be deleted. Get my credit card. These two have done a lot of wrong to me. Strictest legal action should be taken against Akash who forcibly had physical relations with me on the pretext of marriage, blackmailed me and took money from me by threatening to make the photos and videos viral. I am giving this statement of my own free will and without any pressure or fear. I wrote my statement, read it and understood it, it is correct. sd/- Payal Dated 14.05.2024 (Kamlesh Kumari) Adv. Kamlesh Kumari Legal Adv. Dt 14.05.2024, verified: Raj Bala ASI Dt 14.05.2024 Today Police Station: Today I ASI was present at Police Station that Payal daughter of Surendra Mohan Pasi, resident 3852, NIT 3, No. SGM Nagar, Street No. 1, Faridabad aged 39 years came to the Police Station and recorded her above mentioned statement in front of Legal Aid. The statement should was recorded word by word and she signed below the statement in English. That the statement was verified by Legal Aid and I ASI have also verified it. A Case No. 52 dated 14.05.2024 has been registered under Sections 376 (2) (N), 354D, 406, 34 IPC, copies of the First Information Report are being prepared by computer as per the rules and special reports are being sent to the service of the Illaga Magistrate and concerned officers through ladies Constable Manjeet No. 3964/Fridabad, I am busy in investigating the orginal statement and copy of case. Note: The above case was filed in the presence of ASI Rajbala and the investigation is being carried out. The above case in CCTNS was registered in the ID of Renu.”



3. Learned counsel for the petitioner has argued that the petitioner is in custody since 11.06.2024. Learned counsel has further submitted that the a bare perusal of the FIR would reflect that there was consensual relationship between the petitioner and the victim which turned sour later on due to supervening circumstances and it is on this account that the petitioner has been falsely implicated into the FIR in question. Learned counsel for the petitioner has further relied upon an affidavit sworn in by the complainant dated 06.08.2024 (copy whereof has been appended as Annexure P-2 with the instant petition) to argue that the misunderstanding earlier between the petitioner and the victim has since been settled. 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 11.09.2024 in Court, which is taken on record.

5. Mr. Parmender Singh, Advocate has filed vakalatnama for the complainant/victim. The same be taken on record.

Learned counsel for the complainant/victim has ratified that the affidavit dated 06.08.2024 (copy whereof has been appended as Annexure P-2 with the instant petition) has actually been sworn in by the complainant/victim.

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

7. The petitioner was arrested on 11.06.2024 whereinafter investigation was carried out and challan stands presented on 26.07.2024.



Total 21 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 consensual relationship between the petitioner and the victim which turn sour later on and the FIR has been registered falsely against the petitioner on this account & the veracity/weightage required to be attached to the affidavit dated 06.08.2024 sworn in by the complainant/victim (copy whereof has been appended as Annexure P-2 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 11.09.2024 filed by learned State counsel, the petitioner has already suffered incarceration for a period of more than 03 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 case.

8. 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.

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 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.

(SUMEET GOEL)
JUDGE

13.09.2024
P.Singh

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No