



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

204

**CRM-M No.46042 of 2024
Date of decision : 20.9.2024**

Sukhwinder Singh @ Kukad**Petitioner**
Versus
State of Punjab**Respondent**

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Sandeep Kumar Yadav, Advocate, for the petitioner
Mr. Yuvraj Singh Tiwana, AAG Punjab

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.37 dated 16.8.2022, under Sections 420, 376, 379 and 506 of IPC and Sections 66-A & 66-E of Information Technology Act, 2000 (Section 411 IPC added later on), registered at Police Station Rawalpindi, District Kapurthala.
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 Palavi daughter of Gurdev Singh, resident of Rihana Jattan, Police Station Rawalpindi, District Kapurthala aged about 19 years mobile number 95108-66120 stated that i am resident of above said address. My father works as driver and my mother is Nirmal Kaur is household lady. We are two, sister and brother. Brother Manjot is elder to me works at G.N.A. Mohatiana. After my study of twelfth class, I am doing



course of IELTS at Vishal Mega Mart, Phagwara. I daily used to go and come by Hargobind bus. The conductor of bus, Sukhwinder Singh alias Kukkar S/o Balvir Singh resident of Kal Kat District Hoshiarpur has taken my Mobile No.94647-37628. He started calling me from his phone number. At this in May 2022 we have come into contact with each other. After that Sukhwinder Singh started pressurizing me for marriage. Then on date 06.06.2022 Sukhwinder Singh taken to me on the pretext of marriage with me and by trick. He has got me stayed at Chintpurni Himachal Pradesh at some hotel at bus stand of which I do not know the name but I know about that place. There he has given to me 'Chura' and 'Mangalsutr'/ Nuptial Chain and in the room of hotel also have taken photographs with him. After that he, without my consent, even by my denial, by committing cheating, forcibly have physical relation with me and after that have taken my photographs with him in my nude condition. That for about 10/11 days he has kept me at hotel there by scaring me and threatening me. Then my family members, by searching me have reached at Chintpurni. There between Chintpurni to Bharwai, while going we both were nabbed by my family members. Then we both of them were taken by my family members with them at Punjab. There Sukhwinder Singh has dropped my family members at Hoshiarpur. After that we have come to know that he has already performed two marriages. At this we said to him that first of all you settle with them and after that perform the marriage with social rites and customs. But Sukhwinder Singh being insulted has forcibly over phone started scaring and threatening me that if you have not agreed with me then I shall viral your photographs and objectionable photographs to your known persons. After coming to house, I have come to that that while coming from Chintpurni, he has stolen my personal phone Samsung, which was sent by my relatives from Italy, from my purse and that is with him. Then on date 30 July 2022 Sukhwinder Singh has sent some of his voice recording and some photographs at Mobile No.97790 34016 of my brother and also sent some chatting. My brother has told this to entire family. But because of fear of insult, we have not talked with anyone and even we have not given any reply to him. After that Sukhwinder Singh, by taking phone number from my phone, started sending my photographs to our known persons. Therefore, Sukhwinder Singh at the grievance about his life, on the pretext for performing marriage with me and committing cheating on me, and against my consent



has committed rape on me and by taking the photographs with him in my nude condition, for defaming me in the society have sent to persons known to me, and viral the objectionable photographs. That because of this by feeling the insult, with the consent of our family and gentle persons, myself and my mother Paramjit Kaur were going to Police station then you have met us here. I have got recorded my statement, read it and heard it and it is correct. Sd/-

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 20.8.2022. Learned counsel has further argued that there was consensual relationship between the petitioner and the victim which turned sour later and, thus, the petitioner has been falsely implicated in the FIR in question. Learned counsel has further submitted that the prime prosecution witness namely the victim has also stands examined. 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 19.9.2024 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 20.8.2022 wherein after investigation was carried out and challan stands presented on 15.11.2022. Total 26 prosecution witnesses have been cited out of which only one witness (victim) has been completely examined and two have been partly examined. Thus, it is indubitable that conclusion of the 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, as to whether the petitioner has been falsely implicated in the FIR in question on this account only; 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 material 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 19.9.2024 filed by learned State counsel, the petitioner has already suffered incarceration for a period of two years and twenty eight 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

20.9.2024
Ashwani

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No