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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-49565-2024 (O&M)
Date of Decision: 16.10.2024

SUNIL @ SUNIL VERMA

.. Petitioner

Vs.

STATE OF HARYANA

..Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. S.S. Duhan, Advocate for the petitioner.

Ms. Priyanka Sadar, AAG, Haryana.

...

SUMEET GOEL, J. (Oral)

1. Present petition has been filed under Section 483 BNSS, 2023 for grant of regular bail to the petitioner in case bearing FIR No.66 dated 11.03.2024, registered for the offences punishable under Section 376(2)(n) of IPC, 1860 at Police Station Sector-14, Panchkula.
2. The case set up in the FIR in question (as set out by the petitioner in the present petition) is as follows:-

“Statement of Pooja wife of Kalu Ram resident of H.No. 484, Chandi Mandir, District Panchkula, Mobile No. 7988408691. Stated that I am resident of above said address and I am married for the last 12 years. I am having 4 children from my husband Kalu Ram. Whose name daughter Priya 10 years and Bhumika 9 years and Ritika age 6 years and son Priyag age 4 years. Two elder daughters and my son are with my husband. Due to our dispute I have left my husband and has come to my home. The dispute between me and my husband is continuing for the last one year. That I started working to look after the patients in the Alchemist Hospital. There one boy Sunil S/o Bhukhal Parshad resident of H.No. 942/2, Rajeev Colony, Sector 17, Panchkula became my friend and he told me to accept my children and to marry me and he took me in the H.No. 942/2, Rajeev Colony, Sector 17, Panchkula to introduce me with his family. Where Sunil told his mother with regard to me as unmarried and also asked me not to disclosed about me being married. Sunil took me in a room on the first floor of his house and there he started touching me in

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appropriately. When I asked Sunil not to do so then Sunil said that I will marry you and he developed physical relation by making false promise of marriage. Then we started meeting in Rajeev Colony at H.No. 942/2, Rajeev Colony. Sector 17, Panchkula and he keep on giving false promise of marriage and continued physical relation with me. Due to these relations I got pregnant. I told this to Sunil then he refused to marry me and said that this child is not of mine. After some days Sunil made a phone call to me and said that we both will live together in rented accommodation. Thereafter, I and Sunil both started living in a rented house in Manimajra. During this Sunil came 4-5 times in the rented house and again developed physical relations with me and again went away by leaving me and said that I will not accept you and nor I will marry you. The child in your womb is also not mine. Sunil have forcibly developed relations with me by making false promises of marriage and now he is refusing to accept me and my child. Kindly strict legal action be taken against Sunil. Sd/- Pooja 79884- 08691."

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 21.03.2024. Learned counsel for the petitioner has submitted that, assuming *arguendo*, the contents of FIR are taken to be true, no offence is made out against the petitioner as the petitioner and the victim were in a consensual relationship which later on turned sour due to supervening circumstances, especially in the light of the fact that the victim not having obtained divorce from the earlier marriage. Learned counsel for the petitioner has further submitted that the petitioner is a young man aged 25 years with no criminal antecedents. Thus, 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 21.03.2024 whereinafter investigation was carried out & challan was presented on 12.06.2024. Total 24 prosecution witnesses have been cited and culmination of the trial, but of

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for the parties; as to whether there was consensual relationship between the petitioner and the victim which fell apart later on; whether the petitioner was unable to marry the victim on account of supervening circumstances including the factum of the victim not having been divorced; 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 the custody certificate dated 16.10.2024 filed by the learned State counsel, the petitioner has suffered incarceration for more than 06 months and 25 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.

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.



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- (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.

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.

16.10.2024

Jasmine Kaur

(SUMEET GOEL)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes No
Yes No