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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-49990-2024 (O&M)

Date of Decision: 16.10.2024

MOHIT KUMAR YADAV

.. Petitioner

Vs.

STATE OF PUNJAB

..Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Manu Loona, Advocate for the petitioner.

Mr. Anup Singh, AAG, Punjab.

...

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.34 dated 23.05.2024, registered for the offences punishable under Section 376 of IPC at Police Station Women Cell, Police Commissionerate Amritsar.

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

“It is written that complaint No. 330776-PDG Dt. 08-04-2024 from Mannat Kaur daughter Sanjay Singh, resident of House No. 4/877, Street No. 01, New Abadi, Karampura, Fatehgarh Churrian Road, Amritsar through Post was received in the police station for registration of the FIR. The facts of the same are herein below:- Respected Commissioner of Police, Amritsar. Subject: Legal action be taken under the appropriate sections against Mohit Kumar Yadav, son of Mewa Lal, resident of Mohani Park, Near Khalsa College Amritsar (Mohit Kumar Yadav, Employee, Jal Vibhag, Amritsar), his permanent address is Fazilka, his father Vandana, Father Mewa Lal. Sir, It is requested that I Mannat Kaur daughter of Sanjay Singh, resident of House No. 4/877, Street No. 01, New Abadi, Karampura, Fatehgarh Churrian Road, Amritsar and I belongs to Majbi Sikh. I have passed 10+2 Class. I am using Instagram app on the social media and last year i.e. 2023 and I became a

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friend of Mohit Kumar Yadav and he used to message me on Instagram and talks to me and he told me that he is doing a Government Job at Jal Vibhag and he started to say that you are looking so beautiful to me and I fell in love with you and you have to meet me and he used to allure me in his words. On 28.10.2023, above said Mohit Kumar asked me to meet him and said that you have to come at Near Khalsa College and I want to meet you, then I came into his words and went to near Khalsa College to meet him, where above Mohit Kumar Yadav came and said that I lived at Mohni Park/Kabir Park in P.G and asked me to come with him at his P.G, where I want to talk with you and then he took me to his room at above P.G. and said that I like you very much and I want to marry with you and I told him that I belongs to S.C. Caste and he said that he do not believe in different caste and religion, I love you, and I want to marry you and he said that he showed my picture to his mother, father and relatives, who have also like you and they do not have any objection in this marriage and I came into his words, he also talked to me with his parents on video call from his mobile phone, who told me that they like me very much. In this way, Mohit in connivance with his parents took me in their words and I came back to my home. Above Mohit used to talk with me on telephone on a daily basis. That on 19.11.2023 Mohit called me and told me that he is at Bus Stand and asked me to meet him there and then I went to the bus stand to meet him, where he met me and talked with me and offered me cold drink which I drank, and I fell unconscious and then he took me alongwith him to his PG, where due to cold drink's sip he had given me, I fell unconscious and then he torn all my cloths and made me naked and raped me without my consent and also made a video and clicked photographs in his phone of the same and when I opposed it, he started alluring me by saying that we would get married soon. After that he kept meeting me and used to took me to his PG again and again and used to misbehave with me and whenever I asked him to stop he threatened me by saying that I have videos and photos which I will make viral. And every time he raped me without my consent and then even fed me some medicines. Mohit knew that my mother sends me her hard earned money to my bank account, the said Mohit threatened me and withdrew the money from my account. That Mohit also used to consume things to enhanced his sexual desire and have been exploiting me physically. I asked him to marry me and I also told his parents from his phone about the same and told about the marriage and all in vain. That now I told everything to my mother and said about the marriage with above Mohit and he also called him parents and Mohit clearly denied about the marriage with me and said that I had the fun I wanted to have with you. That the parents of the Mohit told me that you belong to schedule caste category and we belongs to upper caste how can we marriage, they also abused me and denied to perform our

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marriage, also gave me beatings, also threatened me to kill and to implicate me in false case. That the above said Mohit on the pretext of false promise of marriage has satisfied his lust by exploiting me physically, and his parents also giving beatings to me. Legal action be taken against them. Sd/- Mannat Kaur.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 23.05.2024. Learned counsel for the petitioner has submitted that there was consensual relationship between the petitioner and the victim which fell apart later on due to supervening circumstances & thus the petitioner has been falsely implicated into the FIR in question. 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 23.05.2024 whereinafter investigation was carried out & challan was presented on 20.08.2024. Total 17 prosecution witnesses have been cited and culmination of the trial, but of course, will take its own time. The rival contention of the 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 FIR in question has been registered against the petitioner on account of such relationship felling apart; 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

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prosecution evidence. As per the custody certificate dated 15.10.2024 filed by the learned State counsel, the petitioner has suffered incarceration for more than 04 months and 18 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.
- (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.

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- (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

Yes No

Whether reportable

Yes No