

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

2024:PHHC:142178



201

CRM-M-53130 of 2024 (O&M)

DATE OF DECISION: 29th October, 2024

Ravinder

.....PETITIONER

VERSUS

State of Haryana

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Ms. M.N. Jajoria, Advocate for the petitioner.

Ms. Priyanka Sadar, AAG Haryana.

Mr. Ishan Thakur, Advocate for complainant.

SUMEET GOEL, J (ORAL)

CRM-42373 of 2024

For the reasons stated in the application, the same is allowed,
subject to just exceptions.

CRM-M-53130 of 2024

1. This is the second petition filed by the petitioner under Section 483 of BNSS, 2023 for grant of regular bail to him in case bearing FIR No.108 dated 28.02.2023, registered for the offences punishable under Sections 354-D, 376, 379-A, 506, 509 of IPC (Later Section 376(2)(n) IPC and Section 67-A of Information and Technology Act were added and Section 376 IPC was deleted), at Police Station Tosham, District Bhiwani, Haryana.

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

1. *That I Kavita daughter of Shri Kailash is resident of Khandwas, Tehsil Tosham, District Bhiwani. 2. That my engagement was done by my parents at Hisar, when the above accused, who is my brother-in-law in the relationship, came to know about it, he contacted me on my mobile number for about 10-15 days. He was harassing me by calling me repeatedly on 9350566199, 9671988635 and threatening to break your relationship and get my brother also killed. 3. That the accused was pressurizing me by repeatedly calling me that either you come and meet me in Bhiwani, I have to talk to you about something important. If you don't come, I will get your brother killed and break the relationship with your in-laws by lying about you. 4. That after hearing this, I came under pressure and on 22.2.2023 without informing to my family, I went to Bhiwani to meet the accused. The accused met me outside the bus stand and said that there is too much noise here, let's sit inside and talk. He took me to a guest house opposite bus stand and forcefully took me to the room and forcibly did wrong things with me and also made video calls and showed my in-laws that he was with me in the hotel. He made my photo and video there and snatched my phone and purse, took out Rs. 14500/- kept in the purse, returned the empty purse to me and threatened that I will not let your relationship go anywhere, I will marry you only after killing your sister. If you tell this to anyone, I will post your video and photo on the net. Somehow I escaped from there, I managed to get into the bus and reached home. After this, I was very scared, that the accused might make my video photo viral, I remained at home scared. After my arrival, the accused sent wrong messages to my in-laws and called and said wrong things about me and my in-laws informed my family about this, after which I told the whole truth of this incident to my family, now I am scared that he will kill me also. It is therefore request you to take the strictest legal action against the above mentioned accused and delete my videos which he has. My phone and money should be recovered and my life should be protected. I shall be thankful to you Sd/- Kavita, Applicant Kavitha D/O Kailash MOB NO. 8059497597."*

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 17.03.2023. Learned counsel has further argued that the FIR in question was got registered on the basis of a mis-understanding which

subsisted between the parties and accordingly the victim has testified (as prosecution witness) against the petitioner during the course of trial. Learned counsel for the petitioner further argued that the entire prosecution evidence stands recorded and was closed on 28.10.2024. Learned counsel for the petitioner has further submitted that compromise dated 11.10.2024 (copy whereof has been annexed as Annexure P-3 with the instant petition) has also been effected between the parties. In this view of the matter, learned counsel has prayed for grant of regular bail.

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 28.10.2024 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 17.03.2023 whereinafter investigation was carried out and challan stands presented on 13.5.2023. It is not disputed that the entire prosecution evidence stand recorded. It cannot be ignored that the accused has a right to lead defence evidence in accordance with law. Thus, at this stage, it cannot be said that there are any chances of tempering the evidence/interfering with the trial by the petitioner, in case he is released on bail. The rival contention of the learned counsel for the parties; as to whether the FIR in question was registered on the basis of a misunderstanding and the weightage/veracity required to be attached to the compromise dated 11.10.2024 (copy whereof has been appended as Annexure P-3 with the instant petition); shall be gone into during the course

7. 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 trial proceedings. The first bail petition preferred by the petitioner was dismissed as withdrawn on 31.01.2024. It is not in dispute that pursuant to passing of this order, the entire prosecution evidence has been recorded. This factum, in the considered opinion of this Court, is sufficient enough to consider the present application (second regular bail). As per custody certificate dated 28.10.2024 filed by learned State counsel, the petitioner has already suffered incarceration for a period of more than 01 year, 07 months and 11 days & is not shown to be involved in any FIR 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 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.

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.

29th October, 2024
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(SUMEET GOEL)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No