

CRM-M-58126-2023

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

107/214

CRM-M-58126-2023 (O&M)

Date of decision: 12.01.2024

Amritpal Singh @ Modi

....Petitioner

V/s

State of Punjab

....Respondent

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Vaibhav Narang, Advocate for the petitioner.
Mr. Adhiraj Singh Thind, AAG Punjab.

SUMEET GOEL, J. (Oral)

CRM-709-2024

Notice of the application.

On the asking of Court, Mr. Adhiraj Singh Thind, AAG Punjab,
accepts notice on behalf of respondent-State of Punjab.

Application is allowed as prayed for, subject to all just
exceptions. Documents appended with the application are taken on record.

CRM-M-58126-2023

1. This is a second petition under Section 439 Cr.P.C. for grant of
regular bail to the petitioner in case bearing FIR No.115 dated 21.07.2022,
registered for the offences punishable under Section 376 IPC at Police
Station Kamboj, District Amritsar Rural. The earlier petition was dismissed

by coordinate Bench of this Court on 14.02.2023 passed in CRM-M-1242-2023.

2. The case set up in the FIR in question is as follows:-

“Statement of Simranjit Kaur alias Yamuna wife of Baljit Singh resident of Kherabad Police station Kamboj aged 28 years, mobile no. 6283652125 made a statement that I am resident of above said address and I do labour work, I got married around 13 years ago with Baljit Singh who is doing mesne work. I have two children. The eldest one is daughter Noordeep who is around 7 years old and younger..to her is son namely Piyush who is around 5 years old. Amritpal alias Modi son of Jaspal Singh resident of Khalra who is son of my Massi in relation with him I have friendship from around 8 months and very often I use to talk to him on phone. I wanted to marry him and he also told me that he would marry me. On 15.06.2022 I was in my house with my children and my husband had gone to work outside, Amritpal alias Modi came to our house during afternoon around 1.30 and told me that my husband is a drug addict and further told that he would bear all my expenses and asked me to accompany him, he has taken myself and my children with him and has taken us to one Hotel near Darbar Sahib Amritsar the name of Hotel I don't know, there we had stayed for three days and he had developed physical relations with me. Then parents of Modi, grandfather, Chachi and 2-3 more person came to hotel and told us that they would get our marriage performed and we should go to village with them. Then we had gone to village same day at village Khalra. Then I along with my children stayed at village Khalra in the house of Modi for three days. My husband gave one complaint to the effect that his wife has gone somewhere without telling him, In this regard Mod and his entire family has taken me to police station Kambo and Modi told that he would get me divorce from my husband and then they both will performed marriage. Then Modi has refused to marry me and told me I can do whatever I want but he would not perform marriage. Then I had gone to the house of my sister at village Khialan where she is married. Modi has gave me false promise of marriage and has developed physical relations with me. Against him legal action may be taken and justice be granted to me. Till now Modi did not let the FIR registered even after Modi use to say me that he would perform marriage with me but till date he did not take me with him, Today I along with my relatives including brother Major Singh, mother Ranjit Kaur and younger brother Akashdeep

Singh came to police station to get my statement recorded I have heard my statement, which is correct, against the above said persons legal action may be taken. Verified as correct Simranjit Kaur above said.”

3. Learned counsel for the petitioner has argued that after completion of investigation, challan was presented and thereafter during the course of trial, material prosecution witnesses have resiled. It is submitted that the present case was got registered by the complainant-prosecutrix on account of pressure by her family members and hence it is prayed that petitioner be enlarged on 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. She submits that there is no change of circumstances after the dismissal of first bail application on merits.

5. In rebuttal, learned counsel for the petitioner points out that when the earlier bail petition (CRM-M-1242-2023) was dismissed on 14.02.2023 by this Court, at that time the statement of three material prosecution witnesses i.e. PW-1, PW-2 and PW-3 (who have not supported the case of the prosecution) had not been recorded. The same were recorded on 19.10.2023 & 28.09.2023 respectively, which was after the dismissal of the earlier bail petition and thus is a material change of circumstances in the facts and circumstances of the case.

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

7. The petitioner is in custody since 22.09.2022; challan was presented on 24.02.2023 wherein 18 prosecution witnesses have been cited. As per material brought on record, PW-1 (Simranjit Kaur-Prosecutrix), PW-2 (Ranjit Kaur-mother of victim) & PW-3 (Major Singh-brother of victim) have not supported the case of the prosecution but the same will be gone into during the course of trial. The custody certificate dated 11.01.2024 filed by the State of Punjab does not reflect involvement of the petitioner in any other case and no tangible material brought forward to show any reasonable apprehension of the petitioner fleeing from the process of law or tampering with the remaining prosecution evidence. Keeping in view entirety of the facts and circumstances of the case, this Court does not deem it appropriate to keep the petitioner in further detention.

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/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

January 12, 2024
Ajay

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