



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

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**CRM-M No.58074 of 2024
Date of decision : 26.11.2024**

Abhishek Sharma**Petitioner**
Versus
State of Punjab and another**Respondents**

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. N.S. Lucky, Advocate, for the petitioner

Mr. Anup Singh, 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.239 dated 20.9.2024, under Sections 64, 351(2) of Bharatiya Nyaya Sanhita, 2023, registered at Police Station Kharar, District Mohali.
2. The case set up in the FIR in question (as set out in the present petition by the petitioner) is as follows:-

'Copy of Statement, Statement of Silky Kori D/o Kamal Kishore Kori R/o House No.1118 Purana Aloo Godown, Bengali Mohalla, Ambala Cantt. District Ambala Haryana, currently residing at House No.2126 (Now Flat No.2123) tower no.4Alina SBP City of Dreams Sector 116, Landran Road Kharar, PS Sadar Kharar, District SAS Nagar, aged about 26 years, Mobile number 87086-79706 has stated that I am resident of above- mentioned address. I work as team leader at task company Sector 82 Mohali. Earlier, i have worked as team leader at Teleperformance Sector 75, Phase 8-A Mohali. In July 2022, Abhishek Sharma S/o Rajinder Kumar Sharma R/o Deep Avenue near Baal Bharti School Taran



Tarn, joined our company. He got entry into my team and I was manager of that team. Then in December, 2022 Abhishek Sharma proposed me for marriage. Upon which i told him that we are from different castes, and we can't perform marriage. Upon which he told me that he and his family doesn't bother about such things. He told me that "you will get married to me. I won't let you marry other person, if someone will marry you, he has to face harsh consequences." Then we started taking to each other. Then on the insistance of Abhishek's parents, from 01.03.2023 onwards, we started living together at flat No.2126, Tower No.4 Alina SBP City of dreams Sector 116, Landran road Kharar and flat agreement was also on the name of Abhishek Sharma. Where we lived for about 1.5 years. Our parents were aware about us living together, because Abhishek Sharma's parents were willing to get us married and his family had no issue with my different caste and were ready to get us married. One day Abhishek Sharma told me that I want to live with you permanently in Mohali. I don't want to go to Taran Tarn, as my father Rajinder Kumar is habitual liquor consumer and which causes distress in our home. After sometime Abhishek Sharma's parents started visiting us and started discussing about marriage plans. Then Abhishek Sharma taking me into his confidence, took loan on my name of Rs.1,50,000/- from HDFC Bank and transferred it into his bank account and on different occasions had taken money from my account. And since the time we started living together at Flat, he used to make physical relation with me daily. And many times, he performed forceful unnatural physical relation against my will. I stopped him many times but he told me that we are going to marry soon. Upon which I trusted him. On 09.07.2023 I got pregnant and during my pregnancy I told him and his family to get married soon. Then Abhishek Sharma and his family started making excuses. Then Abhishek Sharma made me forcefully undergo Abortion and gave threats that if you will not perform abortion then you and your unborn child will be killed. Then I decided to go to the Flat, but Abhishek Sharma intimidated me and I stayed with him. On Abhishek Sharma's asking I visited his home in Taran Tarn number of times and used to tell me that you have to accept all the conditions of my parents and used to beat me. Then on 14.07.2024, Abhishek Sharma made relation with me unnaturally. Then I told my parents about it and my parents talk about the same to Abhishek Sharma's Parents. Who used bad words for me and my family. Then Abhishek Sharma told me to get loan to move abroad. On my denial, Abhishek Sharma's parents took him away from me and didn't send him back and told me that we wo'nt let our son marry you and you do whatever you can. That Abhishek Sharma S/o Rajinder Kumar Sharma has developed physical relations with me on the pretext of the marriage and later on refused to do so. Appropriate legal action must be taken against him and justice must be served. Sd/ Silki Kouri Attested by Mandeep Kaur ASI 1920/SAS PS Sadar Kharar Dated 20.09.2024.'



3. Learned counsel for the petitioner has argued that the petitioner is in custody since 10.10.2024. Learned counsel has further iterated that there was consensual relationship between the petitioner and the victim and temporary differences arose therein, on account of which the FIR in question has been registered. Learned counsel for the petitioner has further submitted that the said differences have now been resolved and a deed of compromise dated 12.11.2024 has been entered into between the parties concerned. Learned counsel has further submitted that the culmination of the investigation into the FIR in question will take long. 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 23.11.2024 in Court, which is taken on record.

Ms. Gurpal Kaur Dulat, Advocate has entered appearance on behalf of respondent no.2-victim and has filed her *vakalatnama*. The same be kept on record. She has ratified regarding the deed of compromise dated 12.11.2024 (copy whereof has been appended as Annexure P-2 with the instant petition).

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

6. The petitioner was arrested on 10.10.2024 and is in custody since then. The matter is under investigation and culmination of



proceedings/investigation 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, whether the FIR in question is result of the said consensual relationship falling apart as also the veracity/weightage required to be attached to the deed of compromise dated 12.11.2024 (copy whereof has been appended as Annexure P-2 with the instant petition); 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 custody certificate dated 23.11.2024 filed by learned State counsel, the petitioner has already suffered incarceration for a period of one month and nine 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 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

26.11.2024
Ashwani

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