

CRM-M-62545-2023

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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Date of decision:15.02.2024

Sahil Khan

....Petitioner

V/s

State of Punjab

....Respondent

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Munfaid Khan, Advocate for the petitioner.
Mr. Anup Singh AAG Punjab.

SUMEET GOEL, J. (Oral)

Pursuant to order of the preceding date, status report by way of affidavit of Simranjit Singh, Deputy Superintendent of Police, Zirakpur, District SAS Nagar has been filed in Court. The same is taken on record.

1. Present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.288 dated 07.06.2022, registered for the offences punishable under Sections 376, 506, 201 of IPC at Police Station Zirakpur, District SAS Nagar.

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

“At this time it is entered that a complaint bearing No 2595/S/SSP, dated 04.03.2022, submitted by Sonia wife of Yogesh Kumar, resident of House No 531, AKS Colony-2, Zirakpur, Police Station Zirakpur, District SAS Nagar is received in this police station through Daak/post through Ct. Gurmail Ram-841/SAS Nagar, whose contents are as follow: To, the SHO, Police Station Zirakpur, Mohali, The worthy SSP, Mohali, Respected Sir, I, Sonia wife of Yogesh Kumar, resident of House No 531, AKS Colony-2, Zirakpur, Police Station Zirakpur, District SAS Nagar requests you that I am working in Jeena Sikho Company at Zirakpur since last 03 years. It is my duty to give promotion to the employee at the earliest and to send them in operation and after providing training to the employees/ candidates, they are resolving the

issues of queries of patients. In the month of June, 2020 one youth named Sahil Khan joined my batch and he started to know as well known in the other students. After providing training of 10 days to this batch, I sent this batch at floor. He started to contact with me and to enquire from me related training & calls and he enquired that how I can increase sale. He started to live near around me. Slowly- slowly he started to tell his problems of life and family. I was very funny guy. I used to make happy everyone. In training Each Batch have to make Whatsapp Group, so that information relating to training could send. After training he started sending me messages on Whatsapp i.e. Good morning etc. One day he told that he effecting from depression, because he was loving to a girl, but after breaking relation his love has ended. His household condition was not good. His sisters had issues in laws and there were more issues in house as he had told it to me. Once upon he had involved in some case and during police remanded, the police had badly beaten to him. But on arresting real murders, he was released. On hearing story, I had sympathy with him. I am also emotional girl. I thought he has been beard/ tolerated so many incidents in so small age, so I thought that I should help him. His age is only 20 years. I promised to him that I bring out you from depression. I used to attend Lecture in motivation, SO I started to make understand to him. Once upon he told me that I am looking like his elder sister Shabana and from that day, he started to call me as his sister. Once upon my health condition became poor, upon which he dropped me at my house from office and after dropping me he went away. Our conversation increased day by day in office also and we stared sitting together more and to take food together. Slowly- slowly he started to visiting terms at our house and his family also started to visit at our house and our family relation developed each other. His good bonding developed with me, my husband, my mother, brother etc. etc. He also told his story to my husband, then my husband also though that he should help of this child/ employee. He by telling his emotional story connected us with him. Our more conversation started on Whatsapp. His parents [mother and father) were used to talk with me on phone. Earlier he was residing in sector 19, Panchkula. After that he stared to construct his house in Dapper. At many occasion he was used to stay at our house upon huge cold and he used to take away our Aactiva on heavy rain. At many times he called as Baby Mom, I was feeling it good. Then I said to him to call me by this name. Our bonding become stronger more and my attached increased more with him. On Idd festival me, my husband, my mother went at their house to eat food. Slowly-slowly he started to take benefit of emotion in office he started not to do work, started to absent

without from office without explaining any reason. In the office, staff started it is not correct. I did not hear any complaint of any staff, because he had won my trust. He is use to sing a song. He has one Channel on You Tube. Slowly- slowly he started to take money from at some occasion he used to take Rs. 2000/- at some occasion Rs. 3000/- on every month, by saying that when I will become a famous singer, then I will return it. My whole family had accepted to him and said that he is member of our family. My husband is doing work from home. From March, 2020, on getting some late, he was used to come at my house till date. Because of work load, my husband used to shouted on me on his presence and he because of work load had not got at anywhere for enjoyment. I started to go with Sahil at every place i.e. to the doctor, to bring household items and to meet any person at distanced place and he started to take care me more and he stared to know that you husband has no care of me. He said me that he will care me as Lifetime. He started to give me food, fruits by cutting it, to remind me to take medicine etc, therefore my attachment with him increased more. After office time, he was used to roam me. He was used to do that work also, which was my favorite, which I was not expected from husband. He crossed all limits of my care. Slowly-slowly I started to feel that this relation is going on other track, but I did not felt it wrong, because my heart was clean. There was friendship between us. I had great hobby of photography, by my husband had not interest in it. There I and Sahil was used to click photos inside the house and from outside the house, through Snap Chat, Videos, Reels, to shoot Romantic songs and at many occasion we were used to dance on romantic songs. I started to share my personal things with him like my medical issue, household issues, story of separate in laws, some incidents of childhood. I said to him I am attached with you, don't go away from my life. Now he had knowledge about my weakness. Therefore he started to take money from me every month from office and undue advantage. My family members were used were used to share every matter with each in his presence. He used to celebrate every festival in our house. Slowly- slowly his goal totally changed. He got created dispute in our house between my husband and my brother by telling false story and between my mother and husband. Upon which my husband deserted to him from our house and warned to him not to come back. I had not told any matter of my husband and in laws to my parents, because my mother is heart patient, but he told everything to my parents. Whole family was scatted and my husband banned me to talk with him and blocked his number. But he was in my team in my office, therefore I had to talk with him and I was attached with him emotionally and he indulged me in his talks and he by

weeping, apologized the mistake. I requested to my husband to apologized him, but he did not apology and he also banned me. But did not stop to talk with him immediately. I thought that I will stop slowly-2. He was in my team in my office, but he used not to any work. I by handing over the team back to my boss, requested him to give training against to this team. Now Sahil Khan had to give resignation, because nobody was wanted to take him in his team. Now I felt that everything become normal, but he started to show his real attitude. Despite banning by my husband to me, I was remained meeting with him. We were used to go roaming here and there for enjoyment, to eat food. He started to blackmail me. He used to shoot photography and video. I was used to send me messages and started to extort money from me by saying that I will show photos to your husband, none of the photo was wrong, but from photos everyone can say they are lovers. I felt that he will explain whole story to my family, therefore I remained one meeting with him. He used to say me that he will keep me happy for whole life. He threatened to my husband to eliminate him and to defame me in the office. Upon refusing by me he started to follow me, he used to come near to our house and threatened me that we are in relation. I requested him not to do so, but he didn't agree. Now I had decided that I have to delete all photos, but how, I was not understanding it. I started living in harassment. He used to stand in front my office usually and my people noticed it. One day he called me at his studio to meet him and assured me that he will delete all my photos. It is the matter of October, 2021. I reached at his studio at 7:30 PM, after my duty. After reaching here I said to him that I have to go at my house at the earliest, if I get late for 10 minutes my husband is use to enquire for late coming and is use to ring me. But locked the door and asked me to make physical relation, but I refused. I requested to him that I have to go, but he said as much time you will consume, you will late for house. He snatched my phone from me and said me that he by making video call will show to your husband that you are with me in room... I made many requests to him, but he did not agree and he forcibly removed my top and he lad me on bed and sat on me and kept his mobile phone for capturing video and he forced me and made physical relations with me and he also captured my video and sent me back and threatened me to follow his instruction, otherwise he will make viral this video. After that he by blackmailing on the pretext of said video he made sexual relations with me at many times and every time without protection. Once upon I was pregnant, then I had taken abortion pills, because of which my health had become poor. After that at many times I eaten I-Pills. I, eaten I-Pills for 2-3 times in a month. He started to torture me and was used to extort money from me in

cash and through online. I was trying to break this relations, but I had apprehension of my Photos and videos. Once upon I had deleted all contact numbers of my family, but I could not delete video. So he carried on blackmailing me. After that I stopped to meet him, despite his calling by me. On dated 19th Feb. 2022 he came in front of my office and made telephonic call to me from some unknown number and threatened me to come out otherwise he will consume passion and will viral all photos, upon which I came out and saw that I had all out bottle. Then I requested to him, but he did not agree and he drank said Allout. I went inside my office and he again rang me and said me that he drank only one part and he threatened me to come out, but I did not come out, then he sent my photos, videos to my husband and he told to my husband that he physical relations with me at many times with my consent and he also told the matter of abortion. My husband called me at house and snatched phone from me and he without hearing whole story from me, said me to give divorce. This boy spoiled my whole life. He spoiled my career, family. Sahil is still alive, that time he had created a scene. He used to threatened me to make viral my photos and videos if I did not make physical relations with him again. I had to give resign from job and I am in house. Now I wanted that he may be punished for offence committed by him with me. He is still making phone calls to my relatives and explaining wrong facts about me to them, because he knows that because of defaming Sonia will not take any action against him, but now my life has been spoiled, so I have no fear of any type. So I wanted to punish him. Therefore I am requesting that legal action may be taken against Sahil son of Mehboob Khan, resident of village Dappar District Mohali and my photos and videos may be deleted from his mobile phone and justice may be done with me. Contact Number of Sahib is: 89686-54553; 90417-86068. Sd/- Sonia w/o Yogesh Kumar, R/o House No 531, AKS-2, First Floor, Zirakpur, Mobile No: 90410-09571 and Husband's contact No: 96467-86406. 2595/S/SSP, dated Complaint No: 04.03.2022.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 20.01.2023. Learned counsel has further argued that a perusal of the FIR itself would reflect that there was a consensual relationship between the petitioner and the victim & the instant FIR was got registered on account of such relationship turning sour. It has been further

argued that the victim has denied to undergo medical examination. In this view of the matter, learned counsel has prayed for grant of 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. Learned State counsel seeks to place on record custody certificate dated 13.02.2024 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 20.01.2023 whereinafter investigation was carried out and challan was presented on 22.02.2023. Total 13 prosecution witnesses have been cited and culmination of trial will take its own time. The rival contention of the learned counsel for the parties, regarding the relationship being consensual in nature at one point of time and the same turning sour later on, will 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 case of either parties. Further, no tangible material 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 13.02.2024 filed by learned State counsel, the petitioner has already suffered incarceration for a period of about 01 year and is not shown to be involved in any other case. Suffice to say, further detention of the petitioner as an undertrial is not warranted.

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 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.

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.

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11. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(SUMEET GOEL)
JUDGE

February 15, 2024
Ajay

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