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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-65014-2023 (O&M)

Date of Decision: 16.01.2024

KULWINDER

.. Petitioner

Vs.

STATE OF HARYANA

..Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Parvinder Singh, Advocate for the petitioner.

Ms. Priyanka Sadar, AAG, Haryana.

...

SUMEET GOEL, J. (Oral)

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.61 dated 26.04.2023, registered for the offences punishable under Sections 376(2)(n) 452 IPC and at Police Station Women, Karnal, District Karnal.

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

*“To The SHO Sahib Women Police Station Karnal.
Subject: Regarding inducing of marriage. It is submitted that I Manju Kashyap daughter of Sh. Satpal Kashyap am permanent resident of Village Dholgarh District Karnal. Big fraud has been committed with me. One person whose name is Kulwinder Kashyap son of Sh. Shamsheer Kashyap is permanent resident of Zirakpur Dkoli District Chandigarh Whose mobile No. IS 8283858049 The accused Kulwinder kept on enticing me from the year 2012 to 2023 that I will solemnize marriage with you and 08.10.2022 accused came to my house and made physical relations with me and now on 17.04.2023 he called me at his house Koli Colony Zirakpur City (Chandigarh) and thereafter he met me and told me that come on tomorrow we will solemnize marriage. I kept on following as per his advice. I went to Chandigarh on the same day. Thereafter I rang to Kulwinder then he put my phone No. 9350106398 on blacklist. I made call from various other numbers he did not pick my phone. Thereafter I again after taking mobile of someone else rang him, I asked him that why you have put my mobile no. 9350106398 in black list. Thereafter Kulwinder told that I do not know you, who are you and*

neither I have to talk with you nor I have any relation with you. Some other girl has come in my life. Do whatever you want to do I will not perform marriage with you. Accused Kulwinder by enticing me for marriage has made relation with me. Has made my objectionable video. He took me at Hotel Greek in front of Railway Station in which Mobile Number of Hotel is 8395951180 and said that if you made complaint to the police then viral your video and will defame you. I told the everything to my family and they console me, only then I gave his complaint and if my parents do my match with somewhere else, then issue me threats to commit suicide. He has completely destroyed my life and I want that strict legal action be taken against these type of person and said me that I will marry where my both sisters 1. Suman wife of Ajay 2. Prit Kaur wife of Gurpreet and my parents said. Whereas Sir I want to marry with Kulwinder and on 20.04.2023 Kulwinder after phone call to me speaking that I will kill you and I will finish myself and said that will entangle your family members. It is requested to you that strictest legal action be taken against the above accused. I shall be highly thankful to you. Sd/p Manju Applicant Manju Kashyap daughter of Sh. Satpal kashyap r/o Village Dholgarh District karnal dated 26.04.2023.”

3. Learned counsel for the petitioner has argued that the investigation in the matter is already complete and challan stands presented. Total 16 prosecution witnesses have been cited and culmination of trial will take long time. Learned counsel has further argued that the instant case is one of the consensual relationship which, as per the case set up in the FIR, went on for about eleven years & the instant prosecution has been launched by the complainant on account of fall out of such relationship. Learned counsel has further argued that the complainant has sought to falsely implicate the petitioner on account of pressure asserted by brother of the complainant. Thus, it is prayed that the petitioner be extended the concession 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

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

6. The accused was arrested on 09.05.2023 and is in custody since then. The accused has suffered incarceration for more than 8 months and is not shown to be involved in any other case as per the custody certificate dated 15.01.2024 filed by learned State counsel. The rival contentions of the learned counsel for the parties regarding the FIR in question being on account of fall out of a consensual relationship will be gone into during the course of trial. This Court does not deem it appropriate to delve deep into this aspect of the matter at this stage lest it may prejudice the rights of either of the parties. No tangible material has been brought forward to indicate that there is likelihood of the petitioner absconding from the process of law or interfering with the prosecution evidence. Therefore, in my considered opinion, further detention of the petitioner is not warranted.

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

16.01.2024

(SUMEET GOEL)
JUDGE

Jasmine Kaur

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No