



IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

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CRM-M No.62826 of 2024  
Date of decision : 18.12.2024

Mohammad Aasif .....Petitioner  
Versus  
State of Punjab .....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Lovepreet Handa, Advocate, for the petitioner

Mr. Anup Singh, AAG, Punjab

Mr. Abhishek Khullar, Advocate and  
Mr. J.S. Jaidka, Advocate, for the complainant

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SUMEET GOEL, J. (ORAL)

1. Present second 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.229 dated 11.11.2023, under Sections 376, 500 and 506 of the IPC and Section 66-E of Information Technology Act, 2000, registered at Police Station Tibba, District Ludhiana.
2. The case set up in the FIR in question (as set out in the present petition by the petitioner) is as follows:-

*'Statement of Ayesha daughter of Mohammed Muntazir son of Mohd. Kamaluddin resident of Gali no. 04, Mohalla Punjabi Bagh near house of Asha Counsellor, PS Tibba, Ludhiana aged about 19 years, mobile no. 78888- 21735. Stated that I am a resident of the above stated address. I*



*have studied till class eighth. We are five brothers and sisters, and I am the eldest one. Dated 10 June 2022, my mother and father had fixed my engagement through middleman Mohammed Afzal with Mohammed Asif son of Mohammed Mustakim, resident of Gali No. 2 Near Masjid by the pond Mohalla Punjabi Bagh, Ludhiana. After which both of our families started meeting each other and the boy Mohammad Asif also started talking to me on the phone. On 19th of April 2023 in the evening when I had gone to the market, my fiancé, Mohd. Aasif met me in the market who said to me that we can sit and talk on which I went to the house of Mohd. Aasif along with him. Where I saw that no one was at home and I enquired that no one is at home and Mohd. Aasif replied back that the family members will come in sometime. Mohd. Aasif spoke to me about some marriage related talks and said that we will get married soon after which he started mingling with me physically and started to force me to make physical relationship to which I refused stating that till the time we get married, I cannot do any such act but despite my stopping, he forcibly made physical relationship with me, and during the relationship, he made a video and clicked photographs on his mobile phone, I stopped him from making video on which he forcibly made relationship with me and made a video on his mobile phone. I asked him to delete the video at that time and he said that he will delete the video. Later on 20th of April and 26th of April, Mohd. Aasif called me to again make physical relationship with me on which I retaliated a lot, but he threatened me that if I didn't come, then he will sever the relationship with me. Afraid of which I went on 20th of April and then on 26th of April. On these days. Also Mohd. Aasif made physical relationships with me without my consent. That I was engaged to Mohd. Aasif and due to the fear of embarrassment of my family in the society I did not tell anyone about the occurrence. After sometime Mohd. Aasif sent a message demanding bullet and cash as dowry through the middle man Mohammed Afsal. We being incompetent, my engagement with Mohd. Aasif broke and out of here I did not tell anything to my parents. After the breaking of relationship with Mohd. Aasif, my father engaged me to Mohd. Shadab son of Mohd. Inam resident of Gali no. 3, Mohalla Guru Gobind Singh Nagar, PS Tibba. On 07.11.2023, I was to get married with Mohd. Shadab due to which to receive the baraat we had erected tent and made the arrangements. On 07.11.2023, middle man Mohd. Intezar called my parents at home of Mohd. Shadab where parents of Mohd. Shadab said*



*that he does not want to get married on which my parents asked the reason on which they stated that on the night before Mohd. Aasif had sent a video of physical relationship with the girl and had said that the girl is not right due to which our boy does not want to marry your girl, then my father Mohd. Muntzir and my chacha Mohd. Intazaar talked to Mohd. Aasif that why did he do such a bad thing, then Mohd. Aasif replied that I have done what I wanted to do, on which my parents said that they will complain against him to the police to which he threatened, you do whatever you want to do, I will send this video to other people also. After which my father spoke to mother of Aasif - Nasreen and middle man Mohd. Afzal they said our boy has done what he has done, now whatever you can do, you do. I did not know that Mohd. Aasif son of Mohd. Mustakim, for fulfilment of his sexual urges, illusioned me and my parent into marriage and made physical relationship with me and also made a video at that time. Due to fear of reputation of my parents and being a girl I did not tell it to anyone. Mohd. Aasif forced me and without my consent made physical relationship with me and made a video which he made viral and also caused my new relationship to break, due to which my life has become a hell and has embarrassed my family in the society due to which reputation of my parents has been damaged. Strict legal action should be taken against Mohd. Aasif son of Mohd. Mustakin. I have got recorded my statement before you, heard it, It is correct. Sd/- Ayesha (Hindi) Sd- Mohd. Muntazir(Hindi) Attested Correct Sd/- Sandeep Kaur INSP PS Tibba, Ludhiana. Dated 11.11.2023.'*

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 6.1.2024. Learned counsel has further argued that the FIR in question was got registered on account of a mis-understanding between the parties. Learned counsel for the petitioner further iterated that the prime prosecution witnesses namely the victim/complainant of the FIR, as also father of the victim have turned hostile and thus the trial is not likely to be culminated in conviction. 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 18.12.2024 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 6.1.2024 whereinafter investigation was carried out and challan stands presented on 2.3.2024. Total 12 prosecution witnesses have been cited out of which the prime private prosecution witnesses stand examined. The rival contention of learned counsel for the parties; as to whether the petitioner was falsely implicated into the FIR in question on account of mis-understanding & the weightage/veracity required to be attached to the testimony of the victim/FIR-complainant as also the father of the victim, who have turned hostile; 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.

The petition in hand is indubitably the second bail petition. The first bail petition was dismissed on 2.8.2024 as the testimony of the victim had not been recorded by them.

Keeping in view the entirety of the facts and circumstances of the case, especially keeping in view the extended custody of the petitioner



as also the factum of victim having been recorded as a prosecution witness and having turned hostile, this Court is inclined to favorably consider the present petition (second bail petition) filed on behalf of the petitioner.

As per custody certificate dated 18.12.2024 filed by learned State counsel, the petitioner has already suffered incarceration for a period of about eleven months & 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/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.

(SUMEET GOEL)  
JUDGE

18.12.2024  
Ashwani

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