

In the High Court of Punjab and Haryana at Chandigarh

CRM-M-2454 of 2015
Date of Decision: 05.02.2015

Manish Kataria

---Petitioner

versus

State of Punjab

---Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Rahul Rampal, Advocate
for the petitioner

Mr. Gazi Mohammad, DAG, Punjab
Assisted by Mr. Mansur Ali, Advocate for the complainant
for the respondent-State

- 1. Whether Reporters of local papers may be allowed to see the judgment?**
- 2. To be referred to the Reporter or not?**
- 3. Whether the judgment should be reported in the Digest?**

REKHA MITTAL, J.

The petitioner prays for grant of regular bail in FIR No. 84 dated 17.9.2014 registered at Police Station, Nayagaon, Mohali, District SAS Nagar for offence punishable under Sections 498-A, 506 of the Indian Penal Code (in short "IPC")(Section 313 IPC added later).

Counsel for the petitioner contends that the instant FIR has been lodged after six months of the alleged occurrence dated 10.3.2014 causing physical torture to the complainant resulting in termination of her 08 weeks' pregnancy on 12.3.2014. The petitioner and the complainant performed marriage in December 2013 and it was second marriage of both

the parties. The petitioner and complainant had been residing on first floor of the house of parents of the complainant and the ground floor of the said house is used by parental family of the complainant. There is no evidence on record that either the complainant was physically assaulted on 10.3.2014 much less any such assault has resulted in termination of her pregnancy. It is further argued that miscarriage prior to 20 weeks of pregnancy is quite common and as per medical text, about 15-25% of recognized pregnancies will end in miscarriage before 20 weeks of gestation. It is further argued as the complainant and the petitioner were married for the second time, there is less likelihood of any demand of dowry or harassment to the complainant in connection with the said demand. The petitioner has already been remanded to judicial custody, therefore, no longer required for the purpose of investigation and he is ready to face proceedings in accordance with law.

Counsel for the State assisted by Sh. Mansur Ali, Advocate for the complainant has opposed the prayer for bail. It is argued that the complainant did not lodge the FIR immediately after occurrence dated 10.3.2014 as she was interested to save her marital life. She was being harassed and tortured persistently and was constrained to lodge the criminal proceedings. In view of gravity of allegations against the petitioner, he does not deserve to be enlarged on bail.

I have heard counsel for the parties and perused the records.

There is no material on record to substantiate plea of the complainant that she was given beatings or subject to physical assault on 10.3.2014 or any such misconduct having led to termination of pregnancy.

Prior to lodging of the instant FIR on 17.9.2014, the complainant lodged FIR No. 79 dated 12.9.2014 under Section 506 IPC which was registered on the basis of an application dated 11.9.2014 submitted by the complainant that her husband is giving threats through messages at the mobile of the complainant from the mobile number maintained by him. In the said application, neither any allegation in regard to demand of dowry or she being physically assaulted on 10.3.2014 resulting in termination of her pregnancy has been brought forth. The petitioner has already been remanded to judicial custody, therefore, he is no longer required for the purpose of investigation. The presentation of challan and thereafter conclusion of trial is likely to take its own time. There is no such allegation against the petitioner that he is likely to flee from the process of justice in case, enlarged on bail

Without commenting on merits of the controversy, bail to the petitioner subject to his furnishing bail bonds to the satisfaction of the trial court. However, he shall abide by the following conditions:-

- (i) he shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer; and
- (ii) he shall not leave India without previous permission of the Court.

(REKHA MITTAL)
JUDGE

05.02.2015

PARAMJIT