

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

**Criminal Misc.No.M-42090 of 2014
Date of Decision: March 02, 2015**

Kishore Kumar

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr.Mandeep Singh Sachdev, Advocate,
for the petitioner.

Mr.Shilesh Gupta, Addl.AG, Punjab,
for the respondent-State.

Ms.Jasmeet Kaur-informant in person
along with her mother Ravinder Kaur.

Naresh Kumar Sanghi, J.(Oral)

Prayer in this petition is for grant of regular bail to the petitioner, Kishore Kumar, who has been booked for having committed the offences punishable under Sections 120-B, 313, 323, 406, 498-A and 506, IPC, in a case arising out of FIR No.44, dated 10.04.2014, registered at Police Station, Phase VIII, District S.A.S.Nagar.

Learned counsel contends that the marriage of the petitioner with Jasmeet Kaur (informant) was solemnized on 14.02.2014 and thereafter, they lived together hardly for 15-20 days; due to temperamental differences, the informant left the

house of the petitioner and started residing at S.A.S.Nagar; to put pressure on the petitioner, the impugned FIR was registered on 10.04.2014 at Police Station, Phase VIII, S.A.S.Nagar, for the offences punishable under Sections 120-B, 313, 323, 406, 498-A and 506, IPC, in which all the adult members of the family of the petitioner were nominated as accused; at the time of lodging of the impugned FIR, there was not an iota of word that informant had ever conceived or suffered miscarriage; to make the case more serious and with a motive that the petitioner and his co-accused are not granted bail, the allegations with regard to miscarriage of the informant on account of heating by the petitioner was levelled on 15.11.2014 and as such, Section 313, IPC, was added. He further pointed that earlier the petitioner had filed a petition for grant of anticipatory bail before this Court which was withdrawn and the petitioner himself surrendered before learned Area Judicial Magistrate on 07.11.2014 and since then he is behind the bars. After completion of the investigation, the charge-sheet (report under Section 173, Cr.P.C.) has been presented on 31.01.2015 and as such, further incarceration of the petitioner is not of worth. He also pointed out that except the bald statement of the informant, there is no medical opinion that the informant had ever conceived or suffered miscarriage. He further submits that after

marriage, the informant had joined the company of her husband at Jalandhar and the alleged incidents of demand of dowry and maltreatment had occurred at Jalandhar and as such, the police of S.A.S.Nagar had no jurisdiction to register and investigate the case in hand.

On the other hand learned counsel for the State had very fairly conceded that the petitioner was behind the bars and after completion of the investigation, the charge-sheet (report under Section 173, Cr.P.C.) had been presented before learned Area Judicial Magistrate. He, however, opposed the grant of bail to the petitioner on the premise that the allegations against him were of serious in nature.

Jasmeet Kaur (informant) along with her mother Ravinder Kaur were present in the Court and they had also opposed the grant of bail to the petitioner on the premise that if the bail was granted to the petitioner, in that eventuality, he might extend threats to the witnesses and would not allow the trial to proceed.

I have heard the learned counsel for the parties and with their able assistance gone through the material available on record.

It is the conceded position that the marriage of the petitioner with the informant was solemnized on 14.2.2014 and

after about two months, the FIR at the behest of informant-wife for the offences punishable under Sections 120-B, 313, 323, 406, 498-A and 506, IPC, was registered at Police Station, Phase VIII, S.A.S.Nagar. After about seven months of the registration of the case, the supplementary statement was suffered by the informant with regard to the miscarriage suffered by her. Supplementary statement of the informant in that regard is not supported by any medical evidence. Be that as it may, the commission of the offence under Section 313, IPC, would be a moot point during the course of trial. Any further discussion in that regard may cause prejudice to either party. So far as the offences punishable under Sections 120-B, 323, 406 and 498-A, IPC, are concerned, the petitioner has already suffered incarceration for more than two months. After completion of the investigation, the charge-sheet (report under Section 173, Cr.P.C.) has already been presented before the court below and as such, his further incarceration does not appear to be of any worth. The narration in the FIR would show that after marriage informant whose parents belongs to S.A.S.Nagar had joined the company of the petitioner at Jalandhar which is at far off place from S.A.S.Nagar. All the alleged incidents of demand of dowry, harassment or maltreatment of the informant had occurred at Jalandhar and as such, the jurisdiction of trial would

also be a moot point in the present case. The apprehension of the informant and her mother that after coming out of the jail, the petitioner might threaten the witnesses and be an obstacle during trial do not appear to be a sound reason to decline the bail in the peculiar facts of this case. The case at present is pending in the Court at S.A.S.Nagar while the petitioner belongs to Jalandhar and most of the witnesses are from S.A.S.Nagar.

In view of the totality of the facts and circumstances of the case, the present petition is allowed. Petitioner-Kishore Kumar, s/o late Raj Kumar, r/o House No.54, New Vikaspuri, P.S. Division No.3, Jalandhar, is ordered to be released on bail, subject to his furnishing bail bonds in the sum of Rs.1,00,000/- with one surety in the like amount to the satisfaction of learned Chief Judicial Magistrate/Duty Magistrate, S.A.S.Nagar.

March 02, 2015
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(Naresh Kumar Sanghi)
Judge

