

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl. Misc. No. M-7686 of 2016

DATE OF DECISION: 06.04.2016

Shri Bhagwan

.....Petitioner

Versus

State of Haryana

.....Respondent

BEFORE:- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

1. **Whether reporters of local newspaper may be allowed to see judgment? (Yes/No)**
2. **To be referred to reporters or not? (Yes/No)**
3. **Whether the judgment should be reported in the Digest? (Yes/No)**

Present:- Dr. Anand Kumar Bishnoi, Advocate
for the petitioner.

Mr. Arun Kumar, AAG, Haryana.

DAYA CHAUDHARY, J.

The present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No. 89 dated 11.6.2015 registered under Sections 498-A/323/506 read with Section 34 IPC and Section 315 IPC, which was added later on at Police Station Sadar, Rewari, District Rewari.

Learned counsel for the petitioner contends that not only the petitioner but his family members have falsely been implicated in this case. The marriage between the petitioner and the complainant was solemnized in the year 2002 and no demand of dowry was ever made. In the present FIR, no specific allegations have been levelled and as far as offence under Section 315 Cr.P.C. is concerned, the same has been added later on, whereas, no offence is made out under that Section. As per opinion of the Doctor, it is not possible to ascertain the cause of termination of pregnancy. Learned counsel further submits that even in the allegations levelled by the complainant, she was being harassed for not bearing the male child then the question of termination of pregnancy does not arise.

Learned counsel also submits that on the same set of allegations, co-accused of the petitioner, namely, Banwari Lal and Basanti have been released on anticipatory bail. The present petitioner is in custody since 8.12.2015 and trial may take some time to conclude as other material witnesses have been examined and the complainant is not appearing intentionally inspite of giving opportunity by the trial Court.

Learned State counsel has not disputed the custody period and also the factum of granting bail to co-accused.

Heard the arguments advanced by learned counsel for the parties and have also gone through the allegations levelled in the FIR and other documents available on the file.

Initially, FIR was registered under Section 498-A, 323, 506 read with Section 34 IPC and Section 315 IPC was added later on. As per allegations in the FIR, the complainant was being harassed for not bearing the child but subsequently Section 315 IPC has been added, which shows that the stand of the complainant is totally contradictory as in the initial stage she was shown to be harassed for not bearing the male child but subsequently the pregnancy was stated to be terminated. All the material witnesses have been examined and the complainant is not coming forward for recording of her statement. Co-accused of the petitioner, namely, Banwari Lal and Basanti have already been released on anticipatory bail by this Court and no purpose would be served by keeping the petitioner behind the bars. Accordingly, the present petition is allowed and petitioner-Shri Bhagwan is directed to be released on regular bail subject to his furnishing bail/surety bonds to the satisfaction of trial Court.

April 06, 2016
pooja

(DAYA CHAUDHARY)
JUDGE