

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

**CRM No.M-8152 of 2017
Decided on: 16.03.2017**

Surender Mehta

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MRS JUSTICE REKHA MITTAL

Present : Mr. Surinder Singh Walia, Advocate
for the petitioner.

Ms. Dimple Jain, AAG, Haryana.

Complainant – Nisha in person
with Ms. Mansi Bansal, Advocate.

REKHA MITTAL, J. (Oral)

The petitioner prays for grant of regular bail under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.99 dated 15.12.2016, for offence punishable under Sections 323, 376(2) (n), 498-A, 506 read with Section 34 of the Indian Penal Code (in short 'IPC') (Section 307 IPC added later) registered in Women Police Station, City Fatehabad District Fatehabad.

Counsel for the petitioner has submitted that the present FIR is the outcome of marital disharmony between the complainant and her husband. It is further submitted that in the FIR, there is no mention of date, month and year when the alleged offence of rape was committed by father-in-law of the complainant. It is further submitted that entire dispute between the complainant and her in-laws family members has been settled by way of compromise and a petition i.e.

CRM-M No.6644 of 2017 for quashing of the proceedings on the basis of compromise has been filed in this Court. The last submission made by counsel is that the petitioner has been remanded to judicial custody, therefore, no longer required for the purpose of investigation.

Counsel for the State has opposed the prayer for bail with the contention that offence attributed to the petitioner is serious in nature. However, counsel for the complainant would state that as dispute between the parties has been settled by way of compromise, complainant has no grievance to express. Counsel for the complainant has further submitted that in view of compromise effected between the parties, the complainant has resumed cohabitation and she is residing with her husband.

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

It is an undisputed position of the case that the present FIR has emerged out of marital disharmony between the complainant and her husband and his family members. As per the allegations levelled in the FIR, father-in-law of the complainant had been coming in her room on the pretext of taking her son in lap and he used to try to touch her body. One day after finding her alone in the house, he forcibly established physical relations with her but she remained mum as he threatened to kill her and the child. The marriage was performed in the year 2012 and the FIR has been registered in December, 2016. Dispute between the parties has been settled by way of compromise and a petition for quashing of criminal proceedings is pending before this Court. Though the allegations raised by the complainant constituting

offence under Section 376 IPC are quite serious in nature but keeping in view the fact that the complainant has already resumed cohabitation with her husband and in case her father-in-law remains in custody on the basis of allegations raised by her, it may cause acrimony in her matrimony leading to further misery for the complainant and the minor child born out of the wedlock.

Taking into consideration the peculiar facts and circumstances of the present case, without commenting upon merits of the case, the petition is allowed and the petitioner is ordered to be released on bail 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 his/her from disclosing such facts to the Court or to any police officer; and*
- (ii) He shall not leave India without the previous permission of the Court.*

16.03.2017
yakub

(REKHA MITTAL)
JUDGE

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