

In the High Court of Punjab and Haryana at Chandigarh

CRM -M-8221 of 2017

Date of Decision: 6.4.2017

Charan Singh

---Petitioner

versus

State of Haryana

---Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Jitender Dhanda, Advocate
for the petitioner**

**Mr. Vikas Malik, DAG, Haryana assisted by
Mr. R.D.Sharma, Advocate
for the complainant**

Rekha Mittal, J.

The petitioner prays for grant of bail in anticipation of arrest in FIR No. 06 dated 20.2.2017 for offence punishable under Sections 376(2) (n), 376-B, 377, 506 of the Indian Penal Code (in short "IPC") registered at Women Police Station, Hisar, District Hisar.

Counsel for the petitioner has submitted that marriage of the complainant with the petitioner was solemnized on 17.3.2009 and out of the wedlock, one child namely Manvir was born. The petitioner and the complainant filed a joint petition for divorce by way of mutual consent in the Court of District Judge (Family Court), Neemach in October 2015 wherein statements of the parties in second motion were recorded on 20.4.2016 and a decree of divorce was passed on that date. It is argued that as per the allegations raised by the complainant, she was forcibly subject to rape with effect from 31.3.2016 till January 2017 but when the complainant

appeared before the Court for recording her statement in second motion on 20.4.2016, she did not express any grievance against her husband, sufficient to prove that the allegations are false and have been raised with a view to extract more money from the petitioner who has already paid an amount of Rs. 5 lakhs in the proceedings under Section 13-B of the Hindu Marriage act. In the alternative, it has been argued that if the complainant continued physical relations with the petitioner, she would be taken as a consenting party. The last submission made by counsel is that the petitioner is ready to join investigation and co-operate throughout when otherwise, his custodial interrogation is not required as no recovery is to be effected from him.

Counsel for the State of Haryana assisted by counsel for the complainant would oppose the prayer for bail with the submission that as per allegations raised by the complainant, the petitioner continued to have sexual relationship with her since 31.3.2016 onwards till lodging of FIR by extending threats to eliminate the complainant and son born out of the wedlock.

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

Counsel for the State and the complainant has not disputed that the complainant appeared before the Court of District Judge (Family Court), Neemach for recording her statement in second motion on 20.4.2016 and she did not raise any grievance against any alleged misconduct of the husband. The petitioner is ready to join investigation and his custodial interrogation is not required.

Without meaning to express any opinion on merits of the

controversy, petition is allowed, the petitioner is directed to join investigation within a period of 10 days and on his appearance before the Investigating officer, he shall be released on bail subject, however, to the following conditions:-

- (i)He shall join the investigation as and when required by the Investigating Officer.
- (ii)He shall not offer any threat, promise or inducement to any person acquainted with the facts of the case so as to dissuade him from disclosing the same to the Investigating Officer/Court; and
- (iii)He shall not leave the limits of this country without prior permission of the Court.

(Rekha Mittal)
Judge

6.4.2017

PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No