

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

Criminal Misc. No. M- 34956 of 2017 (O&M)

Date of decision : February 22, 2018

Ishwar Rattan

.....Petitioner

Versus

The State of Haryana

....Respondent

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Rajesh Lamba, Advocate
for the petitioner.

Mr. Anmol Malik, AAG, Haryana.

LISA GILL, J.

This is the petitioner's third petition seeking bail pending trial in FIR No. 82 dated 17.05.2016 under Sections 498A, 406, 506, 376, 354, 34 IPC registered at Police Station Women, Gurgaon.

Earlier two petitions were dismissed as withdrawn on 01.08.2016 and thereafter on 16.05.2017. The abovesaid FIR was registered on the statement of the complainant to the effect that she was married to the accused Mahesh and her real sister was married to Ramesh - the real brother of her husband Mahesh on 21.06.2014. It is stated that the mother and maternal uncle of the complainant had given dowry much beyond their means. A Scorpio car was also given. Details of the articles including the old and silver ornaments are mentioned. It is stated that expense of about ₹50 lakhs was incurred on the marriage. It is further stated that on the next day of the marriage itself, all the

accused persons as well as the husband of her sister expressed their unhappiness with the articles given in marriage and stated that it was settled that the vehicle Fortuner as well as ₹50 lakhs in cash would be given as their land had been sold for crores of rupees. They further stated that the complainant's mother did not fulfil their demand, therefore, they had to face insult in society. Both the sisters were subjected to ill-treatment and harassment. They narrated the same to their mother on coming to their parental home. A panchayat was convened. The accused persons admitted their mistake while stating that their elder son wished to start some business for which he required money but in any case they promised not to harass the complainant and her sister. A sum of ₹2 lakhs was given to the petitioner. However, the complainant and her sister were again sent back from the matrimonial home with another demand of gold chains of 5 tolas each. Nobody came to take them back from the parental home. The mother of the complainant assured of meeting their demands on which they were again sent back. However, the girls were still subjected to ill-treatment on account of demand of more dowry.

It is stated that on 19.10.2014, they were yet again shunted out from the matrimonial home with a condition that they would be rehabilitated only on receipt of two Fortuner cars as well as cash. It is specifically stated that the present petitioner, who is serving at Gurugram, took the complainant and her sister to their parental home and on the way the petitioner made inappropriate advances towards the

complainant's sister. On 18.04.2016, the complainant was brought to her home by the petitioner and on the way he tried to molest the complainant. When she threatened to make a complaint, he apologised while stating that he had committed a mistake which would not be repeated. The complainant did not disclose the matter to anyone. A Panchayat was held in March, 2016 again, as both the girls were not being brought to the matrimonial home. On 10.03.2016, the present petitioner took both of them in his vehicle to the matrimonial home. Yet again assault was launched upon them in the matrimonial home by the accused. The complainant's sister, it is stated, was beaten up on 14.03.2016 by her husband and she was made to sit in the vehicle owned by the petitioner to be sent back home. Yet again, the petitioner committed misdeeds with the complainant's sister, however, she was told not to disclose the same. It is stated that on 14.05.2016, some liniment of country made medicine was applied on the belly of the complainant by her mother-in-law after removal of all her clothes except her undergarment on the pretext that the complainant would then bear a child. The complainant was made to lie on the upper portion of the house. At midnight the petitioner is alleged to have come to the room and forcibly committed rape upon her. It is alleged that the room was thereafter locked from outside by the petitioner and in the morning she was made to bathe forcibly by the accused persons. She was threatened not to disclose this incident to anyone or her widowed mother would be killed by throwing acid on her. At about 8.20 a.m. on the next day, the maternal aunt of the complainant was called.

Complainant's maternal aunt alongwith her brother, two brothers of the complainant and three others came to the matrimonial home. The complainant's sister also gathered courage and disclosed the misdeed of the petitioner qua her. The complainant side was threatened by the accused persons and it was declared that they wanted divorce. It is on these allegations that the above said FIR was registered.

Learned counsel for the petitioner submits that the petitioner is the paternal uncle (*Chacha*) of the husband of the complainant. He has been unnecessarily been involved only due to his relationship in what is essentially a matrimonial dispute. Moreover, he is the only member of the family, who is serving. Therefore, he has been falsely implicated. Learned counsel further points out to the FSL report (Annexure P-3) to submit that no offence punishable under Section 376 IPC is made out against the petitioner. Moreover, all the material witnesses, in this case, have been examined. The complainant and the sister of the complainant has been examined. Cross examination of the sister of the complainant is also complete. The complainant's further cross examination has, however, been deferred as an application under Section 319 Cr.P.C. has been moved for summoning the husband of the complainant's sister. It is further submitted that there are certain DVDs/CDs, forming part of the supplementary challan. The same are in respect to the recording of/by CCTV cameras installed outside the matrimonial home, clearly reflecting that the present petitioner did not go to the matrimonial home of the complainant in the night of 14.05.2016. It is, thus, prayed that

this petition be allowed.

Learned counsel for the State has vehemently opposed this petition while submitting that the complainant as well as her sister have firmly supported the prosecution case. Moreover, there are serious and specific allegations against the petitioner. It is contended that while transporting the young and hapless sisters to and fro from the matrimonial and parental home the petitioner indulged in indecent behaviour with them. Specific allegation of rape on 14.05.2016 has been raised. In respect to the question of the petitioner being the only serving member, it is submitted, on instructions from ASI Fateh Singh, that the other members of the family i.e. the husband, father-in-law and brother-in-law of the complainant, are land owners having substantial landholdings. All of them are well to do persons. It is, thus, prayed that this petition be dismissed.

I have heard learned counsel for the parties at length.

I have also gone through the statement of the complainant's sister (PW11) produced in Court today. Certified copy of statement of the complainant's sister (PW11) is taken on record subject to just exceptions. The complainant as well as her sister have duly supported the prosecution version. The FSL report depicting absence of semen on the undergarment, alleged to have been concealed by the complainant and thereafter handed over to the police authorities as well as the DVDs/CDs in respect to the CCTV cameras installed outside the matrimonial home, would necessarily be subject to the scrutiny of the

learned trial Court and cannot be commented upon at this stage. There

are specific and serious allegations levelled against the petitioner, who is a close relative of the complainant's husband. Both the complainant and her sister have steadfastly stood by their version.

Keeping in view the peculiar facts and circumstances of the case, I do not find any ground whatsoever at this stage to grant the concession of bail pending trial to the petitioner, who has prima facie violated a sacred relationship.

Present petition is, accordingly, dismissed.

It is reiterated that none of the observations made herein above are a reflection on the merits of the case and shall have no bearing on the trial.

February 22, 2018
rts

(Lisa Gill)
Judge

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