

Crl. Misc. No. M-37014 of 2018

(1)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl. Misc. No. M-37014 of 2018

DATE OF DECISION:26.09.2018

Chander Parkash Garg

.....Petitioner

Versus

State of Punjab

.....Respondent

BEFORE:- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present:- Mr. CS Bagri, Advocate
for the petitioner.

Mr. Amit Mehta, Senior DAG, Punjab.

Mr. Puneet Kansal, Advocate
for the complainant.

DAYA CHAUDHARY, J.

Petitioner-Chander Parkash Garg has approached this Court for grant of anticipatory bail to him under Section 438 Cr.P.C. in case FIR No. 36 dated 19.2.2018 registered under Section 304-A IPC (Section 304 and 120-B IPC added later on) at Police Station City Kharar, District SAS Nagar, Mohali.

Learned counsel for the petitioner contends that the petitioner has falsely been implicated in this case being Government employee, whereas, no offence is made out against him. As per allegations in the FIR, the wife of the complainant, namely, Chand (now deceased) was having pregnancy of three months and both i.e. Chand and her baby were good in

health as per ultrasound report dated 16.2.2018 done at Civil Hospital, Kharar. On 18.2.2018, there was an extreme pain to the wife of the complainant and she along with her mother went to the house of the petitioner for treatment but due to wrong advice and negligence, the wife of the complainant died. Initially, FIR was registered under Section 304-A IPC but subsequently Sections 304 and 120-B IPC were added. Learned counsel further contends that the the complainant (husband) of the deceased himself is an accuse in this case as not only he subjected the deceased to cruelty but also compelled her for abortion and this fact is clear from the complaint moved to SSP, Mohali by the father of the deceased against the complainant. It was specifically mentioned in the complaint that the husband of deceased and his family members subjected cruelty to the deceased and caused injuries by demanding dowry and FIR No. 546 of 2013 under Sections 498-A, 147, 149, 323, 324 IPC was registered at Police Station City Sirsa, Haryana against them. Subsequently, there was a panchayati compromise between the complainant and the deceased. It was also alleged in the complaint that the deceased was having pregnancy of three months and complainant and his family members wanted to abort the pregnancy from different doctors and also administered medicines for abortion.

Learned counsel also contends that the present FIR is totally false and has been lodged with ulterior motive. The complainant and his family members did not produce any medical slips, admission card and documents etc. issued by the concerned authority. At the end, learned counsel for the petitioner contends that no offence is made out under Section 304 IPC as initially the FIR was registered under Section 304-A and Sections 304 and 120-B IPC were added lateron by the police due to ulterior

motive and custodial interrogation of the petitioner is not required. Nothing is to be recovered from the petitioner and he is also ready to join investigation and abide by all the terms and conditions to be imposed by this Court or by the investigating agency.

Learned counsel for respondent-State has opposed the submissions made by learned counsel for the petitioner and submits that the petitioner does not deserve the concession of anticipatory bail keeping in view the seriousness of the offence. Specific allegations as well as role has been attributed to the petitioner and just to know the truth, custodial interrogation of the petitioner is required.

Learned counsel for the complainant has reiterated the submissions made by learned counsel for the respondent-State.

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

Initially the FIR was registered under Section 304-A IPC and thereafter Sections 304 and 120-B IPC were added. As per allegations in the FIR, the petitioner was running a clinic without being qualified for the same and due to his negligence and wrong treatment, wife of the complainant had died. Specific allegations and role has been attributed to the petitioner.

By considering the nature of offence and role of the petitioner, no ground is made out to grant anticipatory bail to him. The petition being devoid of any merit is hereby dismissed.

September 26, 2018
pooja

(DAYA CHAUDHARY)
JUDGE