

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

Date of Decision: October 29, 2018

1. Crl. Misc. M- 38279-2017 (O&M)

Jaswinder Singh

...Petitioner

Versus

State of Haryana and others

...Respondents

2. Crl. Misc. M- 36368-2017 (O&M)

Jaswinder Singh

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Sachin Bhardwaj, Advocate
for the petitioner.

Mr. P.P. Chahar, DAG, Haryana.

Mr. Nishant Raj, Advocate
for respondent No.5.

JAISHREE THAKUR, J. (Oral)

This Court proposes to dispose of both the petitions through
this common order as the facts of both the cases are identical in nature.

The instant petition (Crl. Misc. M- 38279-2017) has been filed under Section 439(2) read with Section 482 Cr.P.C. seeking to challenge the order dated 16.09.2017 passed by JMIC Panipat in FIR No. 775 dated 08.09.2017 under Sections 34, 323, 498-A while granting bail to respondent No.5 herein with an additional prayer that further investigation be done in the matter and Section 304-B IPC be added to the aforesaid sections while second petition i.e. Crl. Misc. M- 36368-2017 under Section 482 Cr.P.C. has been filed for directions to respondents No.2 to 4 to constitute a SIT or to transfer the case to CBI to conduct a fair and impartial investigation in FIR No.0740 dated 27.08.2017 registered at PS Model Town, Panipat.

Learned counsel for the petitioner herein contends that there are sufficient materials available on record which would substantiate that the daughter of the petitioner had been subjected to cruelty by contending that he was in a relationship with one Shaifali (a widow) and this relationship was once objected to by his wife. It is contended that thereafter the daughter of the complainant went missing and has not been found for a period of 14 months. The initial grouse of the petitioner was that the bail of respondent No.5 had been allowed in a mechanical manner, without taking into account any of the objections that had been raised by the petitioner herein. It is also argued that since the petitioner's daughter is missing, Section 304-B ought to have been added as well and that is why fresh investigation should be conducted in the case. Learned counsel also placed reliance on a judgment passed in *Neeru Yadav vs. State of U.P. (2014) 16 SCC 508* to conclude that “ if in a case, the relevant factors which should

have been taken into consideration while dealing with the application for bail and have not been taken note of bail or it is founded on irrelevant considerations, indisputably the superior court can set aside the order of such a grant of bail”.

Learned counsel for the respondent-State submits that the matter has been investigated fairly. The daughter of the complainant, when she left her matrimonial home was not carrying a phone with her, therefore, tower location could not be located. It is argued that every attempt has been made to locate her by constituting an SIT (Special Investigating Team) and by issuing various public notices regarding her disappearance. It is also argued that the call detail records of Shaifali had been investigated into. It is submitted that the matter was investigated and in the investigation statements of certain witnesses have been recorded, which would reflect that she had left her matrimonial home alone.

Learned counsel for the respondent No.5 submits that he denies the allegations as set out in the FIR and contends that he has been falsely implicated in the case and after his wife had disappeared he himself had got FIR No.740 dated 27.08.2017 registered. It is also contended that he has undergone a polygraphic test voluntarily to show that he had no hand in her disappearance and the last result showed that no truth has been found in the said allegations.

I have heard learned counsel for the parties and also perused the order that has been impugned at Annexure P/10. No doubt the order dated 16th September 2017 has been passed in a cursory manner without taking into consideration any of the allegations raised regarding

disappearance of his daughter. However, this Court has been seized of the matter for almost a year and an attempt has been made on various dates by issuing directions to locate the missing girl. A status report has been filed by way of affidavit of Satish Kumar, Deputy Superintendent of Police, HQ, Panipat in which details have been given about the attempts made to locate the missing lady- Mandeep Kaur. A perusal of the same would reflect that despite all efforts having been made, they have not been able to get any clue about her whereabouts .

The case law relied upon by the counsel for the petitioner would have been applicable in normal circumstances, however, keeping in view the status report/ the efforts made by constituting an SIT to locate the missing lady/a fact that respondent No.5 has joined investigation/a polygraphic test has been already conducted, this Court is of the opinion that no useful purpose would be achieved by canceling the bail and therefore does not find any ground to set aside the impugned order dated 16.09.2017. However, while disposing of the said petition this Court leaves the question of invoking Section 304-B open to the respondent-State in case the body of the missing lady-Mandeep Kaur is found.

Both the aforesaid petitions stand disposed of.

October 29, 2018

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(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No