

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc. No. M-40134 of 2018 (O&M)
Date of decision : October 15, 2018

Palwinder Singh

....Petitioner

versus

State of Punjab

....Respondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Charanpal Singh Bagri, Advocate, for the petitioner

Ms Samina Dhir, DAG, Punjab for the State with
ASI Satnam Singh, PS Zirakpur, Mohali

Mr. Monty Goyal, Advocate, for the complainant

Fateh Deep Singh, J. (Oral)

CRM-36663-2018

Learned State counsel as well as counsel for the complainant submit that they do not want to file reply to the application and have no objection if the same is allowed. In the light of the stand of the State and in the interest of justice, the application is allowed. Inquiry Report Annexure P/6 is taken on record.

CRM stands disposed of.

CRM-M-40134-2018

This order shall dispose of first regular bail application under Section 439 Cr.P.C. of accused Palwinder Singh husband of complainant Ms. Puneet Randhawa in case bearing FIR No. 156 dated 10.5.2018, under Sections 406, 498-A, 307 IPC, Police Station Zirakpur, SAS Nagar, Mohali.

The brief allegations as has been brought to the notice of this Court are that a marriage took place between the couple on 28.1.2005 and the complainant gave birth to two children out of this wedlock, a daughter and a son and that the mother-in-law and sister-in-law of the complainant used to harass her on account of demand of dowry. It is further alleged that the petitioner is drug addict and has illicit relations with other women and on instigation of his mother and sister tortured her. It is alleged that during the intervening night of 15/16 September, 2017 the petitioner had assaulted the complainant and tried to strangle her. After this occurrence, she managed to escape after hiring a cab (taxi) and thereafter she was medically examined at J.P.Hospital, Zirakpur leading to the registration of the present case on her written complaint.

Mr. Charanpal Singh Bagri, counsel for the petitioner at the very onset has argued that it is after almost 13 years of the marriage, the allegations have come about and thus the very

allegations of demand of dowry certainly are un-sustainable and unacceptable at such a belated stage of the marriage and further that no evidence under Section 307 IPC prima facie is made out and has brought the attention to the MLR of the complainant in this regard, arguing that nothing is to be recovered from the petitioner who is behind the bars since 20.7.2018.

Ms. Samina Dhir, learned State counsel assisted by Mr. Monty Goyal has sought to oppose the grant of bail on the ground of heinousness of crime and seriousness of allegations arguing that the petitioner has tried to strangle the complainant and it is by providence that she has escaped and thus, the petitioner is not entitled to any relief as prayed for.

Going through the submissions of the two sides, apparently the allegations of demand of dowry have materialized after 13 years of marriage when the couple is bestowed with two children, a male and a female and thus, recovery of any Istri Dhan and applicability of Section 406 IPC is a debatable issue. Further more a close look on the medical record shows that there is bruise mark in front of neck with minimal swelling and thus, even the allegations of Section 307 IPC is under a cloud. The occurrence has taken place at Pathankot within the jurisdiction of Pathankot whereas the MLR has been conducted in a private not so prominent hospital

at Zirakpur from such a far off distance when the complainant could have herself examined even at Zirakpur from a Government hospital. Thus, to the mind of the Court even the applicability of Section 307 IPC is quite unsubstantiated by medical means at this stage. The petitioner is behind the bars since a long time and the trial is not likely to be concluded in near future, no useful purpose will be served by retaining the petitioner in custody. Accordingly, he is ordered to be released on regular bail to the satisfaction of learned Chief Judicial Magistrate/Duty Magistrate, Mohali.

The present petition stands disposed off accordingly.

The observations made herein above shall not be binding on the trial court at the time of trial as these are purely for the disposal of the present bail application.

October 15, 2018
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(Fateh Deep Singh)
Judge

Whether speaking/reasoned ?

Yes/No

Whether Reportable ?

Yes/No