

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

Criminal Misc. No.M-42110 of 2017(O&M)

Date of Decision: March 07, 2018.

Dinesh

Petitioner.

Versus

State of Haryana

Respondent

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr.Namit Sharma, Advocate
for the petitioner.

Mr. Ramesh Kumar, AAG., Haryana.

LISA GILL, J.

CRM-6445 of 2018.

Annexures P-1, is taken on record subject to just exceptions.

Application is disposed of.

CRM-M-42110 of 2017

Petitioner seeks the concession of bail pending trial in FIR No.37 dated 27.05.2017, under Sections 323, 376, 506 IPC, registered at Police Station Women, Panipat.

The petitioner is the unmarried brother-in-law (Devar) of the complainant. As per the allegations in the FIR, the complainant was married with the co-accused Surjit (brother of the present petition). Allegations of ill-treatment and harassment are levelled. The complainant has two children out of this wedlock. It is stated that the complainant's husband is a drunkard. She was threatened and forced to enter into illicit physical relations with the petitioner by her husband as well as mother-in-law. It is further stated that the complainant was fed up from all the incidents and behaviour of the in-laws family members. She

narrated the incident to her family members. All the accused persons threatened to dispossess her from the land and house in the village and also threatened that they would not give her any share in the house and would throw her out of the village. The present FIR was thus lodged.

Learned counsel for the petitioner submits that the present petitioner has been falsely implicated in this case as the complainant has a dispute regarding the property belonging to the petitioner's family. It is submitted that the dispute regarding the property was resolved in a Panchayat. The complainant had earlier submitted a number of representations/complaints against her in-laws family including the petitioner, in which no such allegations attracting the rigours of Section 376 IPC against the petitioner have been raised. Reference is made to the statement of the complainant before the learned trial Court on 12.12.2017, wherein she stated that a Panchayat was convened in the village and 1 ½ Bighas of land was given to her, but all the accused forcibly took possession of the land. It is admitted by the complainant that she had earlier submitted 6 to 7 applications before the police authorities against her husband (brother of the present petitioner), her mother-in-law as well as the present petitioner, but never had any allegations regarding commission of rape been raised in the said complaints. It is further admitted by the complainant that the house in which she is living belongs to her husband, present petitioner and her mother-in-law. It is thus prayed that the present petition be allowed.

Learned counsel for the State, on instructions from ASI Seema, verifies that prior to the lodging of the present FIR, no such allegations regarding commission of rape had been raised by the complainant. It cannot be denied that the complainant has since testified before the learned trial Court. It is informed

that 12 prosecution witnesses are yet to be examined. It is verified that the petitioner is not involved in any other criminal case.

There are no allegations on behalf of the State that the petitioner is likely to abscond or that he is likely to dissuade the witnesses from deposing true facts before the Court, if released on bail. Trial in this case is not likely to conclude in the near future. No useful purpose would be served by keeping the petitioner incarcerated any longer in the facts and circumstances of this case.

Keeping in view the facts and circumstances of the case but without commenting upon or expressing any opinion on the merits thereof, this petition filed by Dinesh, is allowed. The petitioner be released on bail pending trial subject to his furnishing requisite bail bonds and surety to the satisfaction of the learned Trial Court.

It is clarified that none of the observations made hereinabove shall be construed to be a reflection on the merits of the case. The same are solely confined for the purpose of decision of the present petition.

07.03.2018
s.khan

[LISA GILL]
Judge

Whether speaking/reasoned : Yes/No.

Whether reportable : Yes/No.