

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

Criminal Misc. No.M-5544 of 2019

Date of Decision: 11.02.2019

Naresh Kumar

...Petitioner(s)

Versus

State of Haryana

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr. R.A. Sheoran, Advocate
for the petitioner.

Ms. Priyanka Sadar, AAG, Haryana.

HARI PAL VERMA, J. (Oral)

Prayer in the present petition filed under Section 439 of the Code of Criminal Procedure, 1973 is for grant of regular bail to the petitioner in case FIR No.936 dated 27.11.2018 under Sections 323/328/498A/34 IPC registered at Police Station Bhiwani Sadar, District Bhiwani.

Learned counsel for the petitioner has argued that the petitioner is in custody since 30.11.2018 and in the aforesaid FIR, the complainant has named the petitioner as well as her in-laws, as accused. However, during the course of investigation, her in-laws (parents of the petitioner) were found innocent and due to this reason, no challan was presented against them. He further argues that statement of the complainant cannot be believed for the reason that in her first statement recorded on

25.11.2018, when she was taken to PGIMS, Rohtak, she had stated that she had herself taken some wrong medicine by mistake and nobody is at fault. She had signed her statement as correct. Thereafter, she backed out from her earlier statement and after two days, another statement was made on 27.11.2018, whereby she had levelled the allegations against her husband, the present petitioner and her in-laws of beating and quarrelling with her for dowry. She stated that her husband and father-in-law caught hold of her and her mother-in-law put some poisonous substance in her mouth. The petitioner along with his parents had given beatings to her and on 25.11.2018 when she had given her first statement, she was unconscious. In this manner, statement of the victim-complainant cannot be accepted to be true.

Learned State counsel, on instructions from the IO, does not dispute the custody of the petitioner, however, she submits that since there are serious allegations against the petitioner and challan has been presented against him, the investigation cannot be doubted. Had there been a false case, the police would have submitted challan against the in-laws as well.

I have heard learned counsel for the parties.

The petitioner is in custody since 30.11.2018 and trial in the case will take long time, as charge has not yet been framed against him, as informed by learned State counsel. The complainant has given two different statements on 25.11.2018 and 27.11.2018 and both the statements are at variance. Therefore, culpability of the petitioner is yet to be determined during the course of trial.

Accordingly, the present petition is allowed and the petitioner is admitted on regular bail, subject to furnishing of his bail bonds/surety bonds to the satisfaction of trial Court.

It is made clear that the petitioner shall not influence any witness in any manner.

February 11, 2019
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No