

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

222

CRM-M-40371-2019

Date of Decision:14.11.2019

Vinay Kumar

.....Petitioner

Versus

State of Punjab

.....Respondent

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

Present: Mr. Rajesh K. Dadwal, Advocate,
for the petitioner.

Mr. Saurav Khurana, DAG, Punjab.

Mr. Parvesh Sachdeva, Advocate,
for the complainant.

HARI PAL VERMA, J.(Oral)

Prayer in this petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in FIR No.0091 dated 07.06.2019 under Sections 342, 323, 313, 34 IPC, registered at Police Station City Hoshiarpur, District Hoshiarpur.

The aforesaid FIR was registered at the behest of the prosecutrix, allegedly married with petitioner-Vinay Kumar, who developed physical relations with her. FIR No.97 dated 09.08.2017 under Sections 494, 420 IPC, registered at Police Station City Hoshiarpur, is already pending between the parties. After one month of the registration of the aforesaid FIR, she was taken away by the petitioner from her parental home to a room at Banjer Bagh, where they started residing together and during this period, she became pregnant. The allegations against the petitioner is

suffered pain in her stomach and bleeding started. She made a complaint to SSP, Hoshiarpur which resulted into compromise dated 26.03.2019. Thereafter, she was again taken to the room on rent at Jagatpur Mohali, where they started residing together. The petitioner again forced her to develop physical relations stating therein that he wanted a child. After about one month, she again became pregnant, but behaviour of the petitioner changed towards the complainant. The petitioner started beating her by locking inside the room and Rekha Rani who is first wife of the petitioner has also started beating her. They did not provide water and food to the complainant and repeatedly asked her to abort pregnancy. They detained her in a room for four days. She was given beating and during this period, pain started in her stomach. She has gone to the Central Hospital, Hoshiarpur and ultrasound was conducted, where the doctor has informed her that growth of the child is stopped. On 20.05.2019, bleeding started to her and she got her check-up from the Central Hospital, where the doctor informed her that the child has been miscarried.

Learned counsel for the petitioner has argued that the relations between them were consensual and at number of times, the matter has been compromised between the parties. FIR No.97 dated 09.08.2017 is pending consideration before the trial Court and the petitioner is on bail in that case.

Learned counsel for the complainant has opposed the bail on the ground that the petitioner is guilty for offence under Section 313 IPC as he got the pregnancy terminated by giving beatings to the complainant.

Vide order dated 05.11.2019, the doctor who had issued Discharge Card of the victim dated 26.05.2019 was asked to come present to assist the Court.

Pursuant to the aforesaid order, Dr. Harish Bassi, RRM Central Hospital, Hoshiarpur, is present in the Court and has submitted that the pregnancy of the complainant was not a viable pregnancy.

Learned State Counsel, on instructions from ASI Madan Singh, states that as per FIR, the allegations against the petitioner are serious. Apart from the fact that he has solemnized marriage with the prosecutrix despite being already married, he has given beatings to the complainant repeatedly.

Heard learned counsel for the parties.

I have perused the report so produced by the doctor. Petitioner is in custody since 30.07.2019 and as per the doctor, who has conducted the ultrasound on the person of the prosecutrix, pregnancy was non-viable. The allegation of the complainant is that the pregnancy was terminated, is yet to be established during the course of trial. Trial in the case is not likely to be concluded in the near future. Therefore, this Court deems it appropriate to admit the petitioner on bail.

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

However, it is made clear that the observations made hereinabove shall not be construed as an expression on the merits of the case and the trial Court shall proceed with the trial independently without being influenced by the order of bail passed by this Court.

November 14, 2019
seema

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No