

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-12404-2020 (O&M)

Date of Decision: 23.07.2020

Varinder Kumar

... Petitioner

VS.

State of Punjab

... Respondent

CORAM: HON'BLE MR.JUSTICE GIRISH AGNIHOTRI

Present: Mr. RK Jaswal, Advocate for the petitioner

Mr. Harbir Sandhu, AAG Punjab

GIRISH AGNIHOTRI, J. (Oral)

The matter has been taken up through video conferencing on account of lockdown due to outbreak of COVID-19 pandemic.

The petitioner Rattan Singh stated to be aged 28 years, has filed the present petition *inter alia* with a prayer for grant of regular bail in case FIR No.328 dated 04.12.2019 under Section 306 IPC registered at PS Kotwali, Patiala.

Learned counsel based upon the pleadings in the petition submits that in fact prior to this FIR there was never ever any complaint or panchayat or mediation through parents because of any alleged fight between husband and wife. He submits that the mother-in-law of the petitioner i.e. the complainant may have under the wrong impression given the complaint against him. He submits that in fact it is the positive case that the petitioner never harassed his wife and never maltreated her. The marriage was solemnized 8 years back and a son, namely, Krishna was born out of the wedlock. On the asking, he further informs that this child is about 6 years of age and is presently residing with the mother-in-law of the petitioner.

Records show that notice of motion in this case was issued on 15.05.2020. A direction was specifically given to the State to file the status report particularly with regard to the affidavit of the complainant (P2). Thereafter two affidavits have been filed by Yogesh Kumar, PPS, Deputy Superintendent of Police City-I, Patiala dated 30.05.2020 and the other dated 21.07.2020 (forwarded through electronic mode on whatsapp group conducting video conferencing). In the latter affidavit, in para 4, it has been stated that the complainant-Usha has provided a photo copy of the affidavit dated 05.05.2020 alleged to have been given to the family of the petitioner by her wherein similar statement has been made by her that she wants to withdraw case FIR No.328 dated 04.12.2019 under Section 306 IPC registered at PS Kotwali, Patiala against the petitioner.

Notice of motion.

On the asking, Mr. Harbir Sandhu, AAG Punjab accepts notice on behalf of the respondent through video conferencing.

Learned State counsel submits that no quashing petition has been filed based upon the compromise.

Faced with this, counsel for the petitioner then submits that due to COVID situation retention of the petitioner in jail is dangerous to his life and otherwise also the trial is likely to take some time.

Accordingly, this Court deems it appropriate to release the petitioner on regular bail subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of the Duty Magistrate/trial court concerned.

In view of the peculiar circumstances as noticed above, in addition to bail bonds/additional surety which the trial court may further

require the petitioner to furnish as it deems appropriate, the petitioner is directed to get an FDR in the name of his son Krishna who is 6 years' old of Rs.2 lakhs and hand over the same to the Duty Magistrate/trial Court within two months from the date of release of the petitioner. He will also give an undertaking that the said FDR will not be got encashed by him and the said money shall be utilized only for the benefit of the child. This shall await further orders of this Court.

However, it is made clear that anything observed herein shall not be construed to be an expression on merits of the case.

Disposed of.

23.07.2020

vishal shonkar

- 1. *Whether speaking/reasoned?*
- 2. *Whether reportable?*

(Girish Agnihotri)
Judge

Yes/No
Yes/No