

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-32299 of 2020

Date of decision:16.10.2020

Ramesh and another

... Petitioners

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Nirmal Singh, Advocate
for the petitioners.

Mr. Rajiv Sidhu, Deputy Advocate General, Haryana
for the respondent-State.

SUVIR SEHGAL J.

The hearing of the matter has been taken up through video conferencing on account of situation having arisen due to outbreak of coronavirus (Covid-19) pandemic.

This is the second petition under Section 439 of the Code of Criminal Procedure, 1973, by the petitioners, namely, Ramesh and Baljeet, both sons of Dharam Pal for grant of regular bail in FIR No.145 dated 23.05.2020 (Annexure P-1) under Sections 323, 34, 354-D, 427, 452, 506 of Indian Penal Code, 1860 and Section 3(2)(v) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989 (for brevity “the SC and ST Act”) registered at Police Station Siwani, District Bhiwani.

As per the version of the prosecution, FIR was registered on the complaint of Rahul, who stated that Ramesh (petitioner No.1), Ajit and Baljeet (petitioner No.2) scaled the gate and entered his house at 11.30 p.m on 20.05.2020 when he and his family members were sleeping. Ramesh outraged the modesty of the complainant's sister and tried to rape her. She

screamed and the lady members of the family, woke up and they protested. Baljeet (petitioner No.2) and co-accused, Ajit misbehaved with his mother and aunt. Due to the commotion, the complainant also woke up and he confronted the accused who called him “dedo” (caste related word) and threatened that in case, he does not keep quiet, they will destroy his life. The accused attacked and hit the complainant with bamboo sticks as a result of which he became un-conscious. Thereafter, they inflicted injuries on the ladies of the household and threatened them that in case, they report the incident to the police, their life and property will be in danger. After the accused left, his aunt called a pick up vehicle for taking the complainant, who was in unconscious condition, to the hospital. The said three accused alongwith co-accused Sonu and Vikas came to their house again and they damaged the motorcycle which was parked outside the house as well as the pick up vehicle in which the complainant was being taken to the hospital. The petitioners were arrested on 28.05.2020.

Counsel for the petitioners has argued that the petitioners have been framed which is clear from the fact that there is a delay of 03 days in lodging the FIR during which time, the story was cooked up. He has argued that as per the medical report, there are four injuries on the complainant, all of which are blunt. He submits that the challan has been filed on 03.07.2020 and the offence under Section 354-D(2) of IPC has been deleted and Section 354-A(1) of IPC has been added. His assertion is that due to the current prevailing scenario due to spread of contagion, the charge has not been framed and the trial is likely to take time to conclude, therefore, the petitioners deserve to be enlarged on bail. Reliance has been placed by the counsel upon the order dated 04.06.2020 (Annexure P-2), whereby, co-

accused Jage Ram @ Sonu has been granted the concession of regular bail by the learned Additional Sessions Judge, Bhiwani.

Per contra, counsel appearing for the State has opposed the petition. Upon instructions from ASI Jaswant Singh, he submits that both the petitioners have criminal antecedents. By referring to the offences under which the challan has been presented, State counsel urged that keeping in view the seriousness of the allegations and the stage of the trial, the petitioners do not deserve to be released on bail.

I have considered the rival submissions of the parties.

The allegations against the petitioners are of very serious nature. The brazen manner in which the petitioners entered the home of the complainant, outraged the modesty of a sleeping lady, tried to commit rape and upon being confronted, attacked the complainant and gave injuries to the ladies of the house, besides by using a language pertaining to the caste of the complainant and his family members, is outlandish. Such persons are not entitled to the grant of any concession by this Court. Not only this, when the complainant, who was in un-conscious state, was being taken to the hospital for treatment in a pick-up vehicle, both the petitioners accompanied by co-accused attacked the vehicle. The mere fact that the trial is not progressing will not give any advantage to the petitioners, as from the allegations of the FIR, it is clear that the petitioners pose a grave threats to the complainant as well as to the women folk. The charges against the petitioners are yet to be framed. The trial is at the very initial stage and statements of the complainant and eye-witnesses, all of whom are ladies, are yet to be recorded. The petitioners cannot possibly be released on bail at this stage.

The reliance placed by the counsel for the petitioners upon the

order dated 04.06.2020 (Annexure P-2) will be of no help to them. A perusal of this order shows that co-accused Jage Ram @ Sonu was extended the benefit of regular bail as there were no allegations against him attracting the provisions of the SC and ST Act or of disrespect to women. The sole allegation against the co-accused was of causing damage to a vehicle, therefore, the petitioners cannot draw any parity with the co-accused.

Still further, the first petition for grant of regular bail filed by the petitioners was dismissed as withdrawn on 05.08.2020 after arguments. The second petition has been filed barely two months later. No change in the facts or circumstances has been mentioned in the petition nor during the course of arguments.. The filing of second petition, in fact, would be deemed to be seeking review of the earlier order which is not permissible in criminal law.

Before concluding, it deserves to be noticed that a person who is accused of offences which are an affront to the decency and dignity of women, cannot expect any sympathy from the Court.

Keeping in view the totality of the facts and circumstances noticed above, the Court has no hesitation in dismissing the second petition for grant of regular bail.

It is clarified that any observation made hereinabove shall not be construed to be an expression on the merits of the case.

(SUVIR SEHGAL)
JUDGE

October 16, 2020
savita

Whether Speaking/Reasoned

Yes

Whether Reportable

Yes