

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

CRM-M-34569-2020

Date of Decision:09.12.2020

Baljinder Kumar

.....Petitioner

Vs.

State of Haryana

....Respondent

CRM-M-27628-2020

Sushila Devi

.....Petitioner

Vs.

State of Haryana and others

....Respondents

CORAM : HON'BLE MR.JUSTICE AMOL RATTAN SINGH

Present: Mr. Sanjiv Kumar Yadav, Advocate,
for the petitioner.

Mr. Anmol Malik, DAG, Haryana.

Mr. R.S.Malik, Advocate,
for the complainant.

AMOL RATTAN SINGH, J. (Oral)

All cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the Covid-19 pandemic.

CRM-M-34569-2020

By this petition, the petitioner seeks the concession of 'regular bail' under the provisions of Section 439 Cr.P.C., upon FIR No.0329, dated 29.06.2020, having been registered at Police Station Shahabad, District Kurukshetra, alleging therein the commission of offences punishable under Sections 323, 354, 376, 452 and 506 of the IPC.

Learned counsel for the petitioner has made the following submissions:

- i. that admittedly the FIR was got registered after the prosecutrix had allegedly been subjected to physical assault by the petitioner for a long period of time, with the last incident stated to be about 5-7 days prior to the lodging of the FIR on 29.06.2020;
- ii. that there is history of civil litigation between the petitioner and the family of the prosecutrix with that having ended in a compromise entered into in the year 2015 with the witness to that compromise being the Sarpanch of the village, i.e. Vikram Singh, at whose instance the compromise was effected (as contended);
- iii. that the petitioner was in fact attacked by Vikram Singh and others on 28.06.2020 in respect of which a complaint was made to the DSP, Shahbad, on that date itself and that as a matter of fact it is at the instance of the aforesaid Vikram Singh that the FIR in question has been got registered against the petitioner;
- iv. that the petitioner also lodged a complaint to the Mining Officer against Vikram Singh, upon which, on June 01, 2020, an order was passed against the aforesaid Vikram Singh for illegal mining (copy Annexure P-23);
- v. that the aforesaid Vikram Singh and his accomplices attacked a person belonging to a Scheduled Caste which attack was captured in a CCTV camera installed at the house of the petitioner and though Vikram Singh produced witnesses before the DSP stating to the effect that no such incidence happened, however, when the DSP asked for the CCTV footage, the prosecutrix demanded the footage from the mother of the petitioner so that it would not be given to the police, to which the petitioners' mother refused.

He submits that it is on account of all the aforesaid facts, with Vikram Singh in fact citing the prosecutrix, that the FIR against the petitioner has been falsely lodged at her instance.

Learned counsel for the complainant on the other hand submits that all the allegations are against Vikram Singh and not against the prosecutrix and therefore these would have nothing to do with the complaint

made by the prosecutrix alleging physical assaults on her by the petitioner, and with him having been in custody for only four months after the FIR was lodged, he does not deserve to be admitted to bail.

Learned State counsel submits that the prosecutrix being a married lady and having made serious allegations against the petitioner who is her relative, he does not deserve to be admitted to bail.

Having considered the matter, looking at what has been argued by learned counsel for the petitioner, with him also pointing to the documents annexed with the petition, as regards complaints made etc., also keeping in view the period of custody of the petitioner in these circumstances, without making any comment on the actual merits of the case, the petition is allowed and the petitioner is ordered to be admitted to bail, upon him furnishing adequate bail and surety bonds to the satisfaction of the trial court/CJM/Duty Magistrate concerned.

CRM-M-27628-2020

By this petition, the petitioner seeks transfer of the investigation in the same case, i.e. FIR No.0329, dated 29.06.2020, registered at Police Station Shahabad, District Kurukshetra.

Learned counsel for the petitioner submits that in fact the police is not fairly investigating the matter and therefore, the investigation deserves to be transferred to another forum.

Learned State counsel on the other hand submits that in fact the investigation is complete with even the report under Section 173 Cr.P.C. having been submitted before the competent court.

That being so, without making any comment on the actual merits of the case, this petition is dismissed, with the petitioner obviously always at liberty to take his remedy before the competent court before whom the report under Section 173 Cr.P.C. has been submitted.

A photocopy of this order be also placed on the file of other connected case.

December 09, 2020

dharamvir/

**(AMOL RATTAN SINGH)
JUDGE**

Whether speaking/reasoned : Yes

Whether Reportable : No