

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

CRM-M-1851-2021 (O&M)

Date of decision : 09.04.2021

Heera Singh

... Petitioner(s)

Versus

State of Haryana

... Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Naresh Kumar, Advocate for the petitioner.

Mr. Gaurav Gulzar Singh Chauhan, AAG, Haryana.

ALKA SARIN, J. (ORAL)

Heard through video conferencing.

This is the second petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in case Zero FIR No.489 dated 15.10.2019 later on FIR No.166 dated 18.10.2019 under Sections 120-B, 376(2)(n), 506 of the Indian Penal Code, 1860 and Section 3(w)(1) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 registered at Police Station Garhi, District Jind, Haryana.

Learned counsel for the petitioner would contend that after dismissal of first bail petition of the petitioner, the complainant has executed an affidavit dated 18.12.2020 (Annexure P-5) wherein she has stated that due to some heated arguments with the accused (petitioner herein) the police had registered FIR No.166 dated 18.10.2019 whereas the accused had

Vide order dated 05.03.2021 the State was directed to file a status report specifically qua the affidavit dated 18.12.2020 (Annexure P-5) of the complainant appended with the present petition which is alleged to have been executed by the complainant. In compliance thereof, status report by way of affidavit of Tahir Hussain, Additional Superintendent of Police, Narwana, District Jind, on behalf of the State, has been filed wherein it has been stated that qua the affidavit of the complainant dated 18.12.2020 (Annexure P-5), the statement of the complainant was recorded by ASI Radhey Sham, Police Post Dhamtan wherein she has stated that she has voluntarily and without any coercion or pressure sworn the said affidavit. A copy of the statement of the complainant has been appended as Annexure R-1 along with the status report.

Learned counsel for the State would contend that though it has been stated in the status report that the affidavit has been given voluntarily and without any coercion, however, it seems to have been procured by the petitioner by influencing the complainant and further that the petitioner does not have clean antecedents. The State counsel has further referred to the status report wherein it has been mentioned that there are three cases under the Punjab Excise Act, 1914 against the petitioner out of which in two cases the petitioner stands acquitted.

I have heard the counsels for the parties.

Qua the affidavit dated 18.12.2020 (Annexure P-5) of the complainant there is a specific averment in the status report that the statement of the complainant has been recorded by ASI Radhey Sham

coercion or pressure sworn the affidavit (Annexure P-5). Further a perusal of the status report reveals that out of the three cases against the petitioner under the Punjab Excise Act, 1914, in two cases the petitioner stands acquitted.

In view of the above and keeping in mind the period of custody of the petitioner and the fact that the trial is likely to take some time to conclude especially in view of the prevailing conditions on account of COVID-19 Pandemic, without commenting upon the merits of the case, I deem this to be a fit case to grant the concession of regular bail to the petitioner. The petitioner is directed to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the Illaqa Magistrate/Duty Magistrate/Trial Court concerned.

However, the Prosecution will always be at liberty to apply for cancellation of bail in case the petitioner is found to be misusing the concession of bail in any manner.

It is also made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.

Disposed off.

09.04.2021
Yogesh Sharma

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO