

In virtual Court

CRM-M-2404-2021

-1-

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-2404-2021 (O&M)
Date of decision: 27.01.2021

Vishal Kumar

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Vinod Ghai, Sr. Advocate with
Ms. Kanika Ahuja, Advocate
for the petitioner.

Mr. Deepak Kumar Grewal, DAG, Haryana.

Mr. Pratham Sethi, Advocate
for the complainant.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for grant of regular bail in FIR No.337 dated 14.06.2020 under Sections 323, 34, 376, 498-A, 511 IPC, registered at Police Station Samalkha, Panipat.

Learned senior counsel for the petitioner relies upon the order dated 11.01.2021 passed in CRM-M-43217-2020, vide which father-in-law of the complainant, namely Rajinder has been granted the concession of regular bail. The operative part of the order reads as under: -

“...Learned senior counsel for the petitioner submits that as per allegations in the FIR, registered at the instance of Jyoti wife of

Vishal Gahlyan, son of the petitioner, on 12.06.2020, when at about 11.20 PM, she was sleeping in her room, her brother-in-law Vikas and father-in-law Rajender Gahlyan entered into her room and tried to commit wrong act with her. When she made noise, the accused persons gave beatings to her and even her husband did not support her. It is further submitted that in fact, FIR No.338 dated 14.06.2020 was registered under Sections 323, 34, 452, 506 IPC, at Police Station Samalkha, District Panipat on the complaint given by the petitioner and the present FIR is just a counter-blast to the same, however, later on, the said FIR No.338 was cancelled by the police during the investigation.

Learned senior counsel for the petitioner has argued that in fact, it is a matrimonial dispute between complainant Jyoti and her husband namely Vishal Gahlyan, whereas the petitioner being father-in-law, who is aged about 57 years, is involved in another FIR No.481 dated 08.08.2020 under Sections 323, 34, 376, 506 IPC, Police Station Samalkha, District Panipat, again with allegations of trying to commit rape, in which he has been granted the concession of regular bail. The operative part of the order dated 03.12.2020 passed in CRM-M-39872-2020, granting bail to the petitioner in FIR No.481, reads as under: -

“...Learned senior counsel for the petitioner submits that the petitioner is father-in-law of complainant Jyoti daughter of Balwan. It is further submitted that marriage of Jyoti was

solemnized with son of the petitioner namely Vishal on 18.03.2009 and two children were born out of this wedlock. It is also submitted that on 14.06.2020, two cross-FIRs were registered on account of the allegations and counter-allegations between the petitioner's side as well as complainant's side. FIR No.337 under Sections 323, 498-A read with Section 34 IPC, Section 376 read with Section 511 IPC was registered by the present complainant against her husband and in-laws and FIR No.338 under Sections 323, 452, 506 read with Section 34 IPC was registered by petitioner Rajinder against complainant Jyoti and her family members. Since there were allegations and counter-allegations, the matter was compromised between the parties, however, the complainant kept the same in her mind and her behaviour aggravated thereafter.

Learned senior counsel for the petitioner further submits that as per allegations in the FIR, on 06.08.2020, when husband of the complainant Vishal had gone to the farms, his brother i.e. brother-in-law of the complainant Vikas forcibly entered her room and committed wrong act with her without her consent. This fact was brought to the notice of her husband on 07.08.2020, when he returned back and instead of scolding Vikas, all the persons gave beatings to the complainant. In the meantime, complainant called her

parents to arrived at the spot and thereafter, there was a fight between them and complainant Jyoti, her mother Kamlesh and father Balwan were allegedly caused injuries by the petitioner and his two sons. It is further submitted that during the investigation, wife of the petitioner namely Roshni Devi was found innocent. It is next argued that even both son of the petitioner Vishal and Vikas have suffered injuries in the said scuffle and relied upon their MLRs.

Learned senior counsel for the petitioner has next argued that during the investigation, the police deleted the allegation of rape and Section 376 IPC stands omitted. Learned senior counsel has referred to the statement of injured Kamlesh recorded under Section 161 Cr.P.C. that Vishal has caused injuries on her head, whereas other injured Balwan and complainant Jyoti suffered simple injuries. It is further submitted that the petitioner is aged about 57 years and is in custody since 18.09.2020; investigation is complete and he is no more required for further investigation.

Learned State counsel has not disputed the factual position, as submitted by learned senior counsel for the petitioner, however, submits that three persons were injured from the complainant side including her mother and father.

Learned counsel for the complainant has opposed the

prayer for bail on the ground that the petitioner and his sons have caused grievous injuries using lathi and iron rod etc. It is further submitted that if the petitioner is granted bail, he can misuse the concession of bail and may try to induce the witnesses.”

Learned senior counsel for the petitioner has also submitted that the petitioner is in custody since 08.08.2020; investigation is complete; challan stands presented and the charges are yet to be framed.

Learned counsel for the complainant has submitted that in fact, FIR No.338 was got registered by the petitioner just to put pressure on the complainant and her father-in-law (petitioner) and her brother-in-law Vikas are an instrument in spoiling her married life.

Learned State counsel, on instructions from the Investigating Officer, has not disputed the factual position.

After hearing learned counsel for the parties, without commenting upon merits of the case and considering the fact that the petitioner is sought to be repeatedly involved in FIRs under Section 376 IPC at the instance of complainant, though Section 376 IPC was later on deleted in FIR No.481 and also considering his age, this petition is allowed and the petitioner is directed to be released on regular bail subject to furnishing his bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Illaq

Magistrate, concerned...”

Learned senior counsel for the petitioner submits that allegations against the petitioner, who is brother-in-law of the complainant, are that he has tried to commit wrong act along with his father Rajinder. It is further submitted that the petitioner is in custody since 03.09.2020 and the investigation is complete.

Learned State counsel has also not disputed the factual position and submits that challan stands presented.

Learned counsel for the complainant has opposed the prayer for bail on the ground that there are serious allegations against the petitioner in the FIR.

Without commenting anything on merits of the case, considering the fact that the petitioner is in custody since 03.09.2020 and his similarly situated co-accused Rajinder has already been granted the concession of regular bail, this petition is allowed and the petitioner is directed to be released on regular bail subject to furnishing his bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate, concerned.

Petition is disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

27.01.2021
vishnu

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No