

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-13438-2021 (O&M)
Date of decision: 31.03.2021

Vikas

... 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 and
Mr. Edward Augustine George, 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.481 dated 08.08.2020 under Sections 376, 323, 506, 34 IPC (Section 376 IPC was deleted and Sections 325 & 307 IPC were added later on), registered at Police Station Samalkha, Panipat.

Learned senior counsel for the petitioner relies upon the order dated 03.12.2020 passed in CRM-M-39872-2020, vide which Rajinder, father-in-law of complainant Jyoti, was granted the concession of regular bail. The

operative part of the order 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.

After hearing learned counsel for the parties, without commenting anything on merits of the case and considering the aforesaid submissions made by learned counsel for the parties, 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/Illqa Magistrate/Duty Magistrate, concerned...”

Learned senior counsel for the petitioner has argued that the petitioner is married brother-in-law of the victim and he has his own family to support and it will be a matter of trial whether the allegations levelled in the FIR are proved by leading the evidence. It is further submitted that the petitioner is not involved in any other case and primarily the dispute has arisen out of matrimonial discord between complainant Jyoti and her husband Vishal, who is already in custody. It is also submitted that as on today, the petitioner has undergone 06 months and 09 days of custody.

Learned State counsel has not disputed the factual position.

Learned counsel for the complainant has, however, submitted that there are serious allegations in the FIR against the petitioner. As per statement of injured Kamlesh, the petitioner has caused injury on head with rod.

After hearing learned counsel for the parties, without commenting anything on merits of the case and considering the fact that the petitioner is married brother-in-law of the victim; he is not involved in any other case; husband of the victim is already in judicial custody, 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

31.03.2021
vishnu

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No