

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Criminal Misc.-M No.27017 of 2020

Date of Decision: January 18, 2021

Mahesh

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Rohit Mittal, Advocate,
for the petitioner.

Mr. Sukhdeep S. Parmar, DAG, Haryana.

Mr. Nitin Chhabra, Advocate,
for the complainant.

MANOJ BAJAJ, J. (Oral)

Petitioner has filed this petition under Section 439 Cr.P.C. for grant of regular bail, pending trial in case FIR No.247 dated 01.06.2020, under Sections 498-A, 506, 376, 34 IPC, 1860 and Section 6 POCSO Act, 2012, registered at Police Station, Khol District Rewari. The petitioner is in custody since his arrest on 03.06.2020.

The above FIR was registered on the statement of Sugandha-complainant, wherein it was alleged that her father is missing since 02.12.2012, who had borrowed some amount from a person. After the missing of his father, Kuldeep son of Mange Ram started blackmailing and asked her to either give Rs.8.00 lacs or perform marriage with his son. He forcibly performed her marriage with his son Yogesh, though she was minor at that time. Thereafter, Kuldeep, his two sons, Yogesh and Mahesh

committed rape with her. Rakesh, who is nephew of Kuldeep, also forcibly committed rape with her for many years and used to give threats to kill her. They had also taken her nude photographs, and for the last one year and two months, they started demanding money and gave beatings to her. On these broad allegations, the above FIR was registered.

Learned counsel for the petitioner has argued that the alleged incidents of rape took place between the year 2013 to 2016, whereas the FIR has been lodged by the complainant in June, 2020. He submits that the complainant was married to Yogesh on 14.03.2013, who is brother of petitioner and has been falsely implicated along with other co-accused. He has pointed out that the similarly situated co-accused Rakesh against whom the similar allegations have been levelled, has already been released on bail vide order dated 29.07.2020 (Annexure P-11). According to him, the investigation of the case is complete, however, the trial is yet to commence and, therefore, the further custody of the petitioner may not be necessary. He prays for bail.

On the other hand, learned State counsel, assisted by ASI Balwan Singh as well as learned counsel for the complainant have opposed the prayer on the ground that the complainant's husband (Yogesh) and father-in-law (Kuldeep) are already in custody in case FIR No.623 dated 02.12.2012, under Sections 302 and 201 IPC, Police Station, Sadar Bhiwani, which relates to the murder of father of the complainant. He submits that the offence punishable under Section 302 IPC was deleted in the present FIR and after completion of investigation, the final report was submitted, whereupon the charges have been framed on 15.01.2021.

After hearing the learned counsel for the parties, this Court

finds that after completion of investigation, the final report stands filed on 29.07.2020, but the trial is yet to commence. This Court is cognizant of the fact that the outbreak of pandemic COVID-19 in the region may delay the conclusion of trial, therefore, the further detention of the petitioner may not serve any useful purpose, who is presently confined in judicial custody.

Resultantly, without meaning any expression of opinion on the merits of the case, the petition is allowed and it is ordered that the petitioner be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate, Rewari.

January 18, 2021
ramesh

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No