

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-32852-2021

Date of Decision: 09.09.2021

Harprit K. Singh

--Petitioner

Versus

State of Punjab

--Respondent

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ.

Present:- Mr. R.S. Rai, Sr. Advocate with
Mr. Gautam Dutt, Advocate for the petitioner.

Mr. M.S. Nagra, A.A.G., Punjab.

Mr. Vinod Ghai, Sr. Advocate with
Mr. R.B. Gupta, Ms. Kanika Ahuja and
Mr. Edward Augustine George, Advocate
for the complainant.

RAJESH BHARDWAJ.J (Oral)

Present petition has been filed under Section 439 Cr.P.C., seeking concession of regular bail to the petitioner in case FIR No.0001 dated 2.1.2021 registered under Sections 323, 341, 506, 34 I.P.C (Sections 498-A and 313 I.P.C were added later on) at Police Station, Phase 8, District S.A.S Nagar.

Succinctly, the facts of the case are that the complainant Dr. Amitoj Kaur Sidhu lodged the present FIR against the petitioner on the basis of various allegations as mentioned in the FIR. The complainant alleged that she was married to the petitioner on 19.7.2020 and the marriage was performed with full pomp and show. It was further alleged that a hefty amount of money was spent by her parents on the marriage. It was the second marriage of the petitioner after having taken divorce from the first wife. Though, a number of costly dowry articles were given by her parents

in the marriage but soon after the marriage, petitioner and his family members started harassing the complainant on account of the demand of dowry and also started raising various demands. She was mentally harassed by commenting that marriage had not been performed as per their social status. When the complainant came to know about attaining the pregnancy the petitioner-husband did not relish the same and he along with his parents started adopting tactics for getting rid of the pregnancy. She was clandestinely given a concentrate (Kadah) in order to cause the abortion without the consent of the complainant. The cruelty went to the extent that when the complainant was in the bathroom she was physically assaulted by the petitioner and as a result her belly hit with the commode in the bathroom and the petitioner kicked her on her back. The physical assault resulted in the miscarriage. It was further alleged that the petitioner and his parents secretly made videos and audios of the complainant. In nutshell, cruelty and harassment was caused to the extent that having no other alternative the complainant had to approach the police by way of lodging the present FIR for taking a legal action against the petitioner and the co-accused. The investigation commenced and petitioner was arrested. Being aggrieved, petitioner approached learned Addl. Sessions Judge, S.A.S Nagar for grant of bail under Section 439 Cr.P.C. The learned Addl. Sessions Judge, S.A.S Nagar having heard the parties at length and perusing the record, declined the same vide his order dated 21.6.2021. Aggrieved by the same, petitioner has approached this Court for grant of regular bail by way of filing the present petition.

Learned senior counsel appearing for the petitioner has vehemently contended that the petitioner has been made a scapegoat of a

well planned conspiracy by the complainant and her family members. Counsel submits that the petitioner is an officer of Indian Civil Account Services and is currently posted as Deputy Controller General of Accounts, Ministry of Finance, Govt. of India. It has been contended that the dispute emanates from the matrimonial discord which is on account of the temperamental behaviour of the complainant. It has been further submitted that the allegations levelled in the FIR are very well manipulated in a well hatched conspiracy in order to humiliate the petitioner and his family members. It has been submitted that the complainant herself is a doctor and by no stretch of imagination the allegations of causing her abortion in a clandestine manner by the in-laws can be accepted. Learned senior counsel has drawn attention of this Court to the medical record which shows that the allegations made are not at all medically corroborated. He submits that both the petitioner and the complainant are very well educated and well settled and thus there cannot be any question of demanding dowry or causing cruelty, as alleged. Learned senior counsel further submits that the allegations pertaining to beating the complainant on 28.12.2020 were examined by the Board of Doctors and from the opinion of Dr. Harsharanjit Kaur dated 4.1.2021, the possibility of missed abortion/miscarriage as a result of assault is less likely, whereas from the opinion given by Dr. Charan Kamal dated 5.1.2021 the possibility of abortion as a result of physical assault cannot be ruled out completely. Thus, with the conflict of opinions allegations made are prima facie false and frivolous.

Learned Senior Counsel further submits that as per the allegations in the FIR and the medical record, the complainant, who is herself a House Surgeon, approached the District Hospital, S.A.S Nagar on

29.12.2020 at 10.43 PM. On examination at 11.55 PM on the same day she was advised ultrasound to be conducted for the confirmation of the pregnancy, however, to the surprise she being a doctor herself did not get the same conducted and finally the ultrasound was done on 12.1.2021 i.e. after a delay of 15 days. Thus, the complainant had intentionally ignored the medical advise given on 29.12.2020. Learned senior counsel has further drawn attention of this Court to the Admission Record issued by the District Hospital, S.A.S Nagar dated 30.12.2020, wherein it is found mentioned that the petitioner had left the hospital against the medical advice (LAMA/left against medical advice). Learned senior counsel would further submit that a specific assertion has been made in the FIR that complainant was advised U.S.G for foetal well being and gynecologist opinion but the same was not adhered to, which would show a well thought after conspiracy for implicating the petitioner. It has been vehemently contended that the complainant is a House Surgeon and her father is A.I.G in the Police Department who has used his influence in manipulating the FIR. To buttress his argument, counsel submits that the allegations of assault were there in the FIR since beginning but there was no offence found mentioned under Section 313 IPC in the FIR. However, the same was added later on after deliberations in order to implicate the petitioner for stringent offences.

Learned senior counsel would submit that the petitioner is behind bars since 1.6.2021 and the learned Addl. Sessions Judge, S.A.S Nagar has declined the prayer for grant of bail primarily on the ground that the investigation of the case is pending and looking into the facts and circumstances of the case, the tampering with the investigation could not be ruled out. However, counsel submits that as on date the investigation is

complete and there is no justification for the incarceration of the petitioner, who has been falsely implicated by the complainant. It has been further submitted that the petitioner and his family members are keen since beginning to settle this matrimonial dispute amicably with the complainant.

Mr. Vinod Ghai, Senior Advocate appearing on behalf of the complainant has opposed the submissions forwarded by learned Senior Counsel appearing on behalf of the petitioner tooth and nail. Mr. Ghai submits that the facts and circumstances of the case are self speaking. He submits that the marriage in question took place on 19.7.2020, whereas the physical assault resulting in the miscarriage of the complainant took place in the month of December, 2020 itself, which finally resulted in lodging the present FIR on 2.1.2021 would show that to what extent the harassment and cruelty was caused by the petitioner and his family members. He submits that within a short span of about 6 months the complainant was left with no other option than to take shelter of the authorities to initiate the legal action against the petitioner. He further submits that admittedly the complainant is a doctor and the allegations made in the FIR are medically corroborated. Learned Senior Counsel submits that the opinion of the doctors and that of the Medical Board constituted on 9.4.2021 is sufficient enough to prove that there was evidence of pregnancy and abortion and hence, there is no force in the argument raised by learned Senior Counsel for the petitioner that the allegations made in the FIR are a result of conspiracy hatched by the complainant and her family. Learned Senior Counsel further submits that the allegation of the petitioner regarding the social status of the father of the complainant being A.I.G in the Police Department carries no weight as the petitioner himself is a Civil Servant and is in a strong position to exercise

his undue influence. Learned Senior Counsel submits that the FIR in question was registered on 2.1.2021, whereas the petitioner evaded his arrest for 5 long months as he was finally arrested on 1.6.2021. The influence exercised by the petitioner is evident from the fact that about 5 inquiries at the behest of the petitioner were carried out on account of which he kept evading his arrest and as a result remained out of the reach of the investigating agency till 1.6.2021. Learned Senior Counsel further submits that the allegations made by the complainant are medically corroborated. He has drawn the attention of the Court to the MLR issued by the Civil Hospital, S.A.S Nagar, wherein the complainant was admitted on 29.12.2020. It is submitted that on examination by the General Doctor on duty, it was observed that there is a history of physical assault on 28.12.2020 and expulsion of P.O.C was detected. The patient was referred for gynecologist opinion as well. He would submit that the observation of expulsion of P.O.C is entirely different from the termination of pregnancy in medical terms. He argues that expulsion of P.O.C establishes the miscarriage of the patient on account of the assault, as alleged in the FIR. As a result, learned Senior Counsel submits that the petitioner has committed a serious offence of ending the life in the womb and hence deserves no leniency for grant of the bail.

Learned State counsel also argues on the line of the allegations made in the FIR and submits that there are serious allegations against the petitioner. However, learned State counsel submits that investigation is already complete and the challan stands presented in the court of competent

jurisdiction on 1.9.2021.

I have heard learned counsel for the parties at length and have gone through the records made available.

There is no gainsaying that both the parties to the marriage are very well educated and well settled members of the society. The dispute is purely due to the matrimonial discord. Though, the allegations and counter allegations are from both the sides, however, the veracity of these allegations can be established only after the conclusion of the trial. The court is seized of the matter pertaining to the bail and the endeavor of the court would be for creating an atmosphere of a free and fair trial. Learned Addl. Sessions Judge, S.A.S Nagar has also appreciated the allegations and records in detail, however, the prayer was declined as the investigation of the case was pending and in the facts and circumstances releasing the petitioner on bail might have resulted in disturbing the equilibrium. As on date, it is apparent from the arguments raised that the investigation is already complete and learned Trial Court is seized of the matter. The apprehension, if any, of influencing the investigation does not survive any more. Both the parties are now at liberty to prove their respective stand during the trial. The petitioner is behind bars since 1.6.2021 and trial would take sufficient time in conclusion.

In the totality of facts and circumstances and without making any observations on merits, present petition is allowed. Petitioner be enlarged on bail subject to satisfaction of Trial Court/Duty Magistrate,

concerned. Nothing stated herein shall be treated as an expression on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

09.09.2021

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Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No