

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

218+104

CRM-M-39181-2020 (O&M)

Decided on : 26.10.2021

Resham Pal

... Petitioner(s)

Versus

State of Haryana

... Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

(Through Video Conferencing)

PRESENT: Mr. Ashik Kumar Malhotra, Advocate
for the petitioner(s).

Ms. Tanushree Gupta, DAG, Haryana.
assisted by SI Rajbir Singh.

MANJARI NEHRU KAUL, J. (Oral)

CRM-23804-2021

Orders (Annexure P-5 to P-7) filed along with the application are taken on record, subject to all just exceptions. Office to tag the same at appropriate place.

CRM stands disposed of.

CRM-M-39181-2020

The instant petition has been filed under Section 439 Cr.P.C. for grant of bail to the petitioner in case FIR No. 137, dated 30.04.2020 (Annexure P-1), under Section 304-B of IPC, registered at Police Station Chandimandir, District Panchkula.

Learned counsel for the petitioner submits that on the face of it false and fabricated case has been planted upon the petitioner, who happens to be the husband of the deceased. It has been submitted that the parties had been married for three years, prior to the occurrence in question and not

even once had there been any complaint made by the complainant party *qua* the alleged harassment on account of dowry demand.

Learned counsel has submitted that the petitioner, who has been in custody since 07th May, 2020, be extended the concession of bail, as the prosecution evidence has not yet commenced. He has further submitted that despite the case having been adjourned from time to time, the complainant has not put in an appearance, as a result of which, bailable warrants have now been issued to secure his presence. It has also been submitted that it is very evident that the complainant for reasons but obvious has been intentionally not putting an appearance to get his evidence recorded with an ulterior motive to harass the petitioner. He has also submitted that the petitioner has an 18 months old child and there is no body to look after him in his absence.

Per contra, learned State counsel while opposing the prayer and submissions made by counsel opposite, on instructions from SI Rajbir Singh, has not been able to controvert the submissions made by the counsel opposite *qua* the complainant failing to put in an appearance before the trial Court to get his evidence recorded despite the case having been adjourned on four different occasions.

Learned State counsel has also conceded that bailable warrants were issued to secure the presence of the complainant, however, he failed to put in an appearance, even subsequent thereto. She has further submitted that yet again bailable warrants had been issued to secure the presence of the complainant for 17th November, 2021.

I have heard learned counsel for the parties and perused the material on record.

Admittedly even as per the zimni orders, which have been

placed on record by the learned counsel for the petitioner, the hearing of the case has been adjourned ever since 17th February, 2021, on account of the non-appearance of the complainant to get his evidence recorded, despiteailable warrants having been issued to secure his presence.

The petitioner has been in custody since 07th May, 2020 and there is no likelihood of the trial concluding anytime in the near future, as the prosecution evidence has not yet commenced and there are as many as 16 prosecution witnesses who remain to be examined. Therefore, his further incarceration would not serve any useful purpose.

In the facts and circumstances of the case as enumerated hereinabove, the petition is allowed. The petitioner be admitted to bail to the satisfaction of trial Court/Duty Magistrate. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

October 26, 2021

J.Ram

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