

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

202

CRM-M-42696 of 2020
Date of Decision: 13.08.2021

Raj Kumar alias Raju

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Sandeep Arora, Advocate,
for the petitioner.

Mr. Rana Harjasdeep Singh, DAG, Punjab

Mr. Varun Goyal, Advocate,
for the complainant.

AMOL RATTAN SINGH, J. (ORAL)

Case heard via video conferencing.

On December 17, 2020 the following order had been passed by a co-ordinate Bench:-

“Prayer in this petition is for grant of anticipatory bail to the petitioner in case FIR No.252 dated 23.10.2020 under Section 323, 452, 506, 148 IPC, 1860 (Sections 365 and 341 of the IPC, 1860 added later on) registered at Police Station Division No.7, District Jalandhar.

Learned counsel for the petitioner contends that the FIR in question has been registered after an abnormal delay of 32 days from the date of the alleged occurrence. He further submits that a totally

unnatural and self contradictory story has been put forward by the complainant in the FIR in question inasmuch as on the one hand it was stated that on seeing the petitioner and his companions entering the house, they grappled and assaulted her, thereafter, she bolted the door and scaled the wall to save herself while on the other hand she has submitted that when the petitioner and his companions entered the house, her husband was sleeping and they forcibly took her husband to the darbar and assaulted him. Learned counsel for the petitioner submits that it cannot be digested that the husband of the petitioner would have continued to sleep while she was being assaulted by the petitioner and his companions in the house.

Notice of motion.

On the asking of Court, Mr. R.S. Khaira, Assistant Advocate General, Punjab accepts notice on behalf of the respondent-State.

Meanwhile, petitioner is directed to join the investigation as and when required by the investigating officer. In the event of his arrest, he shall be admitted to interim bail on his furnishing bail bonds to the satisfaction of the Arresting/Investigating Officer. The petitioner shall abide by the terms and conditions as envisaged under Section 438(2) Code of Criminal Procedure, 1973.

Adjourned to 23.03.2021. ”

Thereafter on June 30, 2021, learned counsel for the petitioner had informed this court that in fact all non-bailable offences as were alleged to have been committed as per the FIR, had been deleted, with learned State counsel having sought time to verify that fact.

The concerned Deputy Commissioner of Police, Jalandhar, having been told to file a reply to the petition, a status report dated 02.08.2021 has been filed by the DCP, stating therein that initially the FIR was registered alleging therein the commission of offences punishable under Sections 323, 452, 506, 148

of the IPC, with subsequently offences punishable under Sections 365 and 341 of the Code also added (erroneously typed as Section 641 in paragraph 3 of the status report).

However, subsequently again, after investigation was conducted by the ACP, Model Town, Jalandhar, under the supervision of the DCP, it was found that there was no truth in the allegation that the accused had forcibly entered the house of the complainant and had taken away her husband, as she had failed to produce any concrete evidence or any video recording of such occurrence; and therefore it was recommended by the DCP that the offences punishable under Sections 365, 452 and 341 of the IPC be deleted from the FIR.

Consequently, eventually the investigating officer had submitted a report under Section 173 of the Cr.P.C. to the competent court, alleging therein the commission of offences punishable under Sections 323, 506 and 148 of the IPC, all of which are bailable offences even as per learned counsel for the petitioner.

That being so, without making any comment on the merits of the case, the order passed on 17.12.2020 admitting the petitioner to interim bail is made absolute.

It is to be noticed that learned counsel for the complainant has submitted that the complainant in fact has a videography of the complainant's husband being actually taken away from his house and therefore the report submitted under Section 173 of the Cr.P.C. is wholly incorrect and one sided, with the contention of the DSP, that there was no videography of the occurrence, also wholly incorrect.

It is of course to be observed by this court that this is a petition filed

by the petitioner seeking to be admitted to anticipatory bail under the provisions of Section 438 of the Cr.P.C. and the orders passed in this petition would not preclude the complainant from availing of her remedy as per law, even with regard to any incorrect investigation (as alleged), or in respect of an incorrect report having been submitted under the provisions of Section 173 of the Cr.P.C. (again as alleged).

Naturally, upon the complainant wishing to avail of her remedy against such investigation/report, she would always be at liberty to do so, with any such proceedings to be considered on their own merits.

August 13, 2021
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(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	No