

CRM-M-7481-2021 (O&M)

Date of Decision: 31.05.2022

Poonam and others

...Petitioners

vs.

State of Punjab

...Respondent

CRM-M-48972-2021 (O&M)

Poonam

.....Petitioner

Vs.

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Onkar Rai, Advocate, for the petitioners.

Mr. Rana Harjasdeep Singh, D.A.G., Punjab.

Mr. Harsh Chopra, Advocate, for the complainant.

AMOL RATTAN SINGH, J. (ORAL)CRM-M-7481-2021

This petition has been filed under the provisions of Section 439 of the Cr.P.C., for grant of 'regular bail' to the petitioners in the context of FIR No. 119, dated 29.05.2019, registered at Police Station City Phagwara, District Kapurthala, for the alleged commission of offences punishable under the provisions of Sections 307/325/323/148/149 of the IPC.

On 29.04.2022, the following order had been passed by this court:-

“Vide these applications, a compromise deed dated 07.04.2022 is sought to be placed on record

with the accompanying petitions (as Annexure P5 with CRM-M-48972 of 2021 and Annexure P-7 with CRM-M-7481 of 2021), with learned counsel submitting that the said compromise has been effected between the victim (who is alleged to have been pushed from the 2nd floor of her house by some of the accused) and others of her family.

Notice in the applications.

Mr. Rana Harjasdeep Singh, learned DAG, Punjab, accepts notice at the asking of the court, with Mr. Parminder Kaul, Advocate, appears for Mr. Harsh Chopra, counsel for the complainant, and even though the complainant is not a party to the petition, he accepts notice and confirms that the matter has indeed been compromised between the parties.

However, it is considered appropriate that if any such compromise has actually been entered into, the parties to the compromise would make statements to that effect before the learned trial court, including the victim who was allegedly pushed from the 2nd floor of her house, as also all other persons that the trial court considers necessary to be concerned with the matter as regards the alleged commission of the offences in question.

The trial court shall ensure that the victim and all other such persons who would make the statements in that court (if they wish to), would do so in the absence of any of the accused in the court on that date. A report to that effect be sent by the trial court before the next date of hearing.

Adjourned to 31.05.2022.

A copy of this order be also placed on the

file of the other connected matter.”

Pursuant to the said order, a report has been received from the learned Additional Sessions Judge, Kapurthala, dated 27.05.2022, stating therein that the statement of the complainant, Simran Gupta, and her father Bholu Parshad Gupta, were recorded and as per the said statements, a compromise has been effected by them (with the accused), of their own will, without any pressure, undue influence or threat of any kind.

However, a copy of the statement of only Simran Gupta has been annexed with the report and though obviously the report of the learned Additional Sessions Judge is not in any manner doubted by this court but for the record, the copy of the statement of the aforesaid Bholu Parshad Gupta would also be required to be placed on record and consequently, the learned Sessions Judge, Kapurthala, is directed to ensure that a copy of the same be sent immediately to the Registry of this court.

An affidavit has also been filed by the DSP, Sub-Division Phagwara, dated 08.04.2022, which is also ordered to be taken on record.

It is stated therein that the report of the Medical Officer is as follows:-

*“Pt. Is post operative case of L1L3 padicle
screw fixation cl/s Laxiotomy926-3-19) Xclacocceen
Plating on 26.04.2019. Now at present c/o stability to
stand without support as pain leg. On examination.
Decrease power in both limbo.”*

Mr. Chopra, learned counsel for the complainant, also submits that indeed a compromise has been effected between the victim and her father on the one side and the petitioners on the other.

That being so, still without making any comment on the actual merits of the prosecution case in any manner whatsoever, these petitions are allowed. The petitioners shall be admitted to bail upon their furnishing adequate bail bonds and surety bonds to the satisfaction of the learned trial court.

CRM-M-48972-2021

This is the second petition filed by petitioner no.1 in the accompanying petition (CRM-M-7481 of 2021) seeking to be admitted to bail under the provisions of Section 439 of the Cr.P.C., in the context of FIR No.119, dated 29.05.2019, registered at Police Station City Phagwara, District Kapurthala, for the alleged commission of offences punishable under the provisions of Sections 307/325/323/148/149 of the IPC.

Learned counsel for the petitioner submits that the second petition was necessitated despite the pendency of the first in view of the order passed on 23.09.2021 in that petition (CRM-M-7481 of 2021) which reads as follows:-

“Case heard via video conferencing.

Learned counsel for the petitioners submits that the petition qua petitioner no. 1, Poonam, has been rendered infructuous with her having been admitted to bail by the learned trial court itself (and as per learned State counsel, she was released on 14.09.2021).

Learned counsel for the complainant, on the other hand, wishes to refer to an order of this court (coordinate Bench), as regards admitting any person to bail by a court sub-ordinate to the high court, when a similar petition is already pending before this court.

Be that as it may, since there is no petition seeking cancellation of the bail granted to petitioner no. 1, nothing is stated in that regard by this court.

On the request of learned State counsel, to obtain the custody certificates of petitioners no. 2 and 3, adjourned to 13.12.2021.

Learned counsel for the State further submits that in fact the complete order passed by the learned trial court earlier, dismissing the petition filed by the petitioners has not been made available to him by counsel for the petitioners.

Counsel for the petitioners would ensure that a complete copy of the paper-book is emailed to counsel for the State, as also to counsel for the complainant, immediately. ”

It is seen that though the contention of learned counsel for the petitioner to the effect that the petition qua petitioner no.1, i.e. the sole petitioner in this petition, had been rendered infructuous and the statement of learned State counsel appearing on that date, to the effect that as per his instructions she had been released on 14.09.2021, had also been recorded, however it was not recorded anywhere in that order that the petition has actually been rendered infructuous qua petitioner no.1 in that petition, i.e. Poonam.

It is also seen from the case file of that petition that not even in

any subsequent orders passed, had it been observed to have been rendered infructuous qua the said petitioner.

Be that as it may, learned counsel for the petitioner submits that this petition was filed on 11.11.2021 on the presumption that CRM-M-7481 of 2021 had been disposed of as having been rendered infructuous in the context of the present petitioner Poonam, whereas she was actually never released on bail.

That being so as is confirmed by learned State counsel (on instructions), and she being very much a party in CRM-M-7481 of 2021, learned counsel does not press this petition which is therefore ordered to be dismissed as withdrawn, being superfluous.

A photocopy of this order be placed on the file of the other connected case.

May 31, 2022
nitin

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes
No.