

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-5244-2023 (O&M)

Date of decision: 17.07.2023

Jagdeep Singh

...Petitioner(s)

Vs.

State of Haryana

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Ms. Neha Dewan, Advocate
for the petitioner.

Mr. Brijesh Sharma, AAG Haryana.

NIDHI GUPTA, J.

Prayer in the present first petition under Section 439 of Code of Criminal Procedure (hereinafter referred to as "Cr.P.C.") is for grant of regular bail to the petitioner in case FIR No.35 dated 20.11.2021 under Sections 323, 506 and 498-A IPC and Section 6 of POCSO Act registered at Police Station Women Naraingarh, District Ambala.

2. Facts of the case as contained in the FIR are as follows:-

"Respected Sir, it is prayed that the applicant is resident of village Budhakheda Police Station Naraingarh District Ambala I approximately 3 years back due to compelling circumstances at my home used to work at call center Chandigarh on matric basis at that time my age was about 17 years, at that time I got met Jagdish S/o Gurmail Singh R/o Pisol police station Kaithal and he with the help of conversation took me for marriage, I told this fact to my parents who refused for the same and Jagdish Singh started telling me that he and his family do not need any kind of dowry and he with his words showed me his wellness and

took me into confidence in every manner for marriage and took me with him without marriage at his uncle aunty house at Cheeka Kaithal and there also he convinced her uncle aunty for marriage and we staed their fo 1.5 months wihtou narraige, when at home Jagdeep and his aunty Praveen used to be not at home then his uncle Mangat Mor used to take advantage of my helplessness and used to molest me in bad manner and I told about this to Jagdeep and Jagdeep used to console me by saying that there is no problem its our helplessness and soon we will get married and we will leave then on dated 31 May, 2019 Jagdeep solemnized marriage with me at a temple Mana Devi Chandigarh at that time my age was less tan 18 years and I was pregnant too and then both of us stayed as husband and wife at Chandigarh for 4.5 months and after that I delivered. My husband Jagdeep Singh brought me alongwith him at his village Pisol district Kaithal at my in laws house where after approx. one week my husband Jagdeep Singh, mother in la Krishna Devi father in law Gurmail Singh started saying me that you parents are so poor that they did not gave me bed to sleep utensils sofa set fan or cooler. And started taunting me on trivial matters I said that I have solemnized marriage with Jagdeep after coming in his talks and against the wishes of my parents and during this time on dated 16 December 2019 I gave birth to daughter namely Hasrat. After giving birth to daughter my husband father in law all started torturing me and started saying that you burdened us with expenditure by giving birth to a daughter. I stayed at my in laws family for approx. 8 months and at that time when the family members used to be away then my bother in law used to took advantage of my helplessness and used to molest me with bad intentions and with the demands of above stated dowry items above stated answering party started harassing me with domestic violence the moment I used to cook food they used to take out flaws in my food and used to eat own their own and used to fight with me so that I could not eat food and many times they do not let me enter the kitchen, when I used to lay on bed then they used to taunt me that go sleep me on the bed given by your father and get up from this bed, not letting me talk to any one so that I could not share my sorrow. And I was very disappointed I told about the fact of brother in law to my

husband Jagdeep then my husband brought me alongwith him at Chandigarh and then at a rented house in Baltana the number of which is 1253 and started staying there. Their also my husband started harassing me for dowry and not used to give me any money for household expenditure. I wanted to do the job but did not let me do any job. And for harassing me my husband used to do unnatural sex with me. On my refusal he used to beat me I told about everything to my parents then time to time my father used to send me money who spend approx. 70,000 rupees which I have given to my husband despite that my husband used to beat me and used to bring his friends with him at the room and my husband used to compel me to be wrong with them under the impression of liquor, many times his aunty's son Sanju used to visit at the room and he used to molest me with bad intentions and tried to do bad act with me I told about this also to my husband and my husband unheard the same. Despite these things I kept on to settle at my home on dated 04 January 2021 I have birth to daughter Ananya after that my husband started to harassing me even more and said that you have taken job of giving birth to daughters and burdened my parents with expenditure and started saying that I will not keep you and kept on abusing me badly on trivial matters and used to beat me on dated 30.7.2021 my husband gave me beatings and thrown me and my daughters out of the house and said that If I came again then he will kill me I informed about the same to my father, my father brought me and my children to my parents home at Budda Khed and I am staying ta my parental home I pray to you that after conducting legal investigation against all the above answering party justice be granted to me....."

3. It is inter alia submitted by learned counsel for the petitioner that the petitioner has been falsely implicated in the matter. It is submitted that in fact, this was a case of runaway marriage and the petitioner and complainant have been blessed with two children thereafter. It is submitted that the present FIR has been registered after

three years by raising false allegations of dowry, etc. and even provisions of POCSO Act have been wrongly invoked. Allegations in the FIR are that the prosecutrix had conceived before attaining the age of majority, however, the same is totally incorrect as even as per the status report, date of birth of the victim is 01.04.2001 and marriage of the petitioner with the victim was solemnized on 31.05.2019. It is submitted that therefore, victim was more than 18 years old at the time of marriage with the petitioner. Learned counsel further submits that the complainant had been refusing to depose before the learned trial Court. However, vide order dated 07.02.2023, this Court had made it clear that “in case the complainant fails to depose before the next date of hearing, the claim of the petitioner for concession of the bail shall be considered positively.” In pursuance to the said order, the complainant had appeared before the learned trial Court on 16.03.2023 and deposed as PW9.

4. Custody certificate dated 14.07.2023 has been filed which is taken on record as per which the petitioner has undergone total sentence of 1 year 5 months pending trial. Custody certificate also reveals that there are no other cases against the petitioner.

5. Learned State Counsel while opposing the grant of regular bail to the petitioner is unable to deny the above said facts and admits that Section 354 IPC and Section 17 of POCSO Act have been deleted in the present case. It is submitted that DNA of the petitioner has matched. Learned counsel further informs that 9 prosecution witnesses have been examined by the learned trial Court till date.

6. I have heard learned counsel for the parties.
7. Keeping in view the totality of the facts and circumstances of the case and without commenting on the merits of the case, present petition is **allowed** and petitioner Jagdeep Singh s/o Gurmail Singh R/o House No.4, Pakki Pisauli, Kharkan, District Kaithal is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of the CJM/Duty Magistrate concerned. However, it is made clear that nothing stated above shall be deemed as an expression of opinion on the merits of the case.
8. Pending application(s) if any also stand(s) disposed of.

17.07.2023

Sunena

(Nidhi Gupta)
Judge**Whether speaking/reasoned: Yes/No****Whether reportable: Yes/No**