



290 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-3322-2024
Date of decision: 14th May, 2024

Deepak
...Petitioner(s)
Versus
State of Haryana
...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

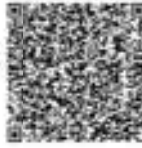
Present: Mr. Bhupinder Banga, Advocate for the petitioner.
Mr. Neeraj Poswal, AAG, Haryana.
Mr. B.S. Saroha, Advocate for the complainant.

MANISHA BATRA, J (ORAL):-

The present petition has been filed under Section 439 of Cr.P.C.
seeking regular bail in FIR mentioned below:-

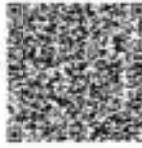
FIR No.	Date	Police Station	Sections
249	16.06.2023	Gadpuri, District Palwal, Haryana	313, 323, 34, 354-A and 506 of IPC (later on Section 354-A deleted and Section 498-A of IPC added)

2. Brief facts of the case relevant for the purpose of disposal of present petition are that the aforementioned FIR was registered on the basis of a written complaint filed by the complainant Dharamvati alleging therein that she was married with the petitioner on 17.04.2019. The petitioner was having extra marital relationship with one Isha and she was resisting that relationship. The petitioner along with her parents-in-law used to physically



assault her everyday and on being fed up, she had filed a complaint against them at Police Station Gadpuri on 23.05.2023. She also alleged that her father-in-law Gian Chand used to keep an evil eye upon her and used to proclaim that her husband would not come to her, but he himself was with her. He also used to do obscene acts with her. For quite some time, she was staying at her parental house. On 15.06.2023, she along with some police officials had gone to her matrimonial house for the purpose of taking her documents/certificates and also for settling herself there. On reaching there, her father-in-law told her to flee from there and otherwise, he would kill the child in her womb. She was pregnant at that time and on hearing so, she was perplexed but in the meanwhile, Netarpal uncle of the petitioner and his other family members pulled her inside. The petitioner gave fist blows on her abdomen, her mother-in-law tried to strangulate her and all of them extended beatings to her. She somehow managed to save herself and fled from that place and was brought to the hospital by her brother. She suffered a miscarriage due to the assault being made by the petitioner and his family members.

3. As per the allegations, after registration of FIR, investigation proceedings were initiated. The victim was medico legally examined. She remained admitted in hospital from 15.06.2023 to 17.06.2023. A parcel of the aborted fetus was prepared and was preserved for the purpose of forensic examination. The statement of the complainant was recorded on 28.06.2023. Offence under Section 313 of Cr.P.C. was added later on. The petitioner was



arrested on 18.08.2023. Offence under Section 354-A of IPC was deleted. Two persons named in the FIR, i.e. Netarpal and Kiran were not found involved in the commission of the subject offence. After completion of necessary investigation and usual formalities, challan was presented in the Court. Now charges have been framed as against the petitioner and co-accused for the aforementioned offences. He had filed an application for grant of bail before the learned trial Court which was dismissed on 06.01.2024.

4. The present petition has been filed by the petitioner on the grounds and it is argued by his counsel that he has been falsely implicated in this case. Infact, the petitioner and the complainant already have a minor disabled son, who is residing with the petitioner. The complainant had left her matrimonial house as she did not want to live with her disabled son. She had been forcing the petitioner and his father to transfer land in her name. While leaving her matrimonial house, she had taken away all her ornaments and cash amount of Rs. 80,000/-. On 15.06.2023, she in-conivance with police officials had intentionally come to her matrimonial house and thereafter implicated them falsely in this case. As per the opinion of the doctor, the miscarriage could be result of physical assault or some pill intake. A false story has been concocted by the complainant. The petitioner is in custody since 18.08.2023. The trial is likely to take time. His custodial interrogation is no more required. The co-accused Gian Singh whose case is on similar footing has since been extended benefit of bail. On the ground of

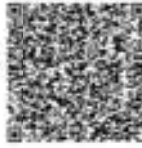


parity, he too deserves to be extended the same benefit. With these broad submissions, it is argued that the petition deserves to be allowed.

5. Status report has been filed by respondent-State. It is argued by learned State counsel that as per the medico legal report, the complainant had suffered an abortion on 15.06.2023 and as per the medical opinion, the possibility of miscarriage of the fetus in her womb due to physical assault or due to pill intake could not be ruled out. The allegations against the petitioner are serious in nature. He in furtherance of common intention with the co-accused had not only subjected the complainant to cruelty on account of demand of dowry but had also physically assaulted her, thereby causing her miscarriage. The trial has commenced. The co-accused Gian Chand was granted benefit of bail being a senior citizen and his case cannot be treated to be at parity with the case of petitioner. Hence, it is argued that the petitioner does not deserve to be given concession on bail.

6. I have heard learned counsel for the petitioner as well as learned State counsel at considerable length and have gone through the material placed on record carefully.

7. As per the allegations, the complainant who is wife of the petitioner but was staying with her parents as she was subjected to cruelty by her husband and other members of her in-laws family, had gone to her matrimonial house on 15.06.2023 to collect some documents. Some police officials were also there. In her statement recorded under Section 164 of Cr.P.C., the complainant stated that the police officials had left her at her



matrimonial home by making the petitioner and his family members understand and had told that they would be coming on the next day but immediately after they had left, she was assaulted by the petitioner and his family members and fist blows were given by the petitioner on her abdomen due to which she had suffered miscarriage. No doubt, the complainant is shown to have suffered a miscarriage but the respondent-State itself has placed on record Annexure R-2, a copy of opinion given by the gynecologist of Civil Hospital, Palwal as per which, the miscarriage could be caused due to physical assault and the possibility of such abortion being caused due to any other reason such as pill take also could not be ruled out. Evidence is yet to be come on record that it was a case of causing abortion/miscarriage of the fetus in the womb of the complainant by way of physical assault done by the petitioner or it was due to pill intake or any other reason. The petitioner is in custody since 18.08.2023. The trial is likely to take time. No useful purpose would be served by keeping him in custody anymore. The allegations against the co-accused Gian Chand were that he had helped the petitioner in assaulting the victim by holding her legs at the time of occurrence. He has been extended benefit of bail by this Court. The case of the petitioner is on similar footing. Keeping in view the discussion as made above, I am of the considered opinion, that the petitioner too deserves to be released on bail at this stage. Therefore, the petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing personal/surety bonds to the satisfaction of the Chief Judicial Magistrate/



Duty Magistrate concerned.

8. It is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.
9. Since the main petition has been allowed, pending application if any is rendered infructuous.

[MANISHA BATRA]
JUDGE

14th May, 2024
Parveen Sharma

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| 1. Whether speaking/ reasoned | : | Yes |
| 2. Whether reportable | : | Yes |