

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-10355-2024

Date of decision:04.03.2024

Tushar Khatri

....Petitioner

V/s

State of Haryana

....Respondent

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Gaurav Grover and Ms. Charu Sharma, Advocates
for the petitioner.

Ms. Priyanka Sadar, AAG Haryana.

Mr. Ravi Singh, Advocate for the complainant.

SUMEET GOEL, J. (Oral)

1. Present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.50 dated 04.09.2023, registered for the offences punishable under Sections 313, 323, 406, 498-A of IPC at Police Station Women Police Station Fatehabad, District Fatehabad.

2. The case set up in the FIR in question is as follows:-
“Subject: Application for registration of FIR and taking action against (1) Tushar Khatri son of Krishan Kumar (Husband) Mobile No. 80596-97044, (2) Krishan Kumar son of Ganga Ram (Father in law), Mobile No. 98132-37327, (3) Pushpa wife of Krishan Kumar son of Ganga Ram (Mother in law), (4) Jyoti daughter of Krishan Kumar (Sister in law), (5) Manisha daughter of Krishan Kumar (Sister in law), residents of Village Kirawar, Near Anandpur Kutiya, Behind Shyam Baba Mandir, Tehsil Tosham, District Bhiwani, (6) Dhiraj son of unknown (Jija of Accused No. 1), resident of Tosham, District Bhiwani for demand of dowry, making unnatural relations, attempt to rape, molesting the applicant, treating her cruelly, getting her aborted, defaming her, assaulting the applicant and her family and threatening to kill her. Sir, the applicant submits as follows:-
1. That the applicant is the resident of Village Gorakhpur, Tehsil & district

Fatehabad. The marriage of applicant with accused No.1 was solemnized on 20.01.2023 as per Hindu rites and ceremonies, upon pressure exerted by accused at Hotel Haveli, Village Mayar, District Hisar. The parents of the applicant as per demand of accused and pressure exerted, on the ceremony of Tika and marriage total rupee 52 lacs were spent, which includes 23 Tolas Gold jewellery, one Car i-10, furniture worth Rs. 2 lacs and in cash and clothes for the family, electronics items, Rs. 5 lacs expenditure towards marriage palace and cash Rs. 3 lacs as shagun were paid and lot of dowry articles were given at the time of marriage and Istri Dhan. (2). That after the marriage of applicant with accused No.1 and have been performing conjugal obligation. The accused is a member of joint family and resides together. Accused No.1, the husband of the applicant and accused No.2, father in law of applicant, accused No.3 mother in law of applicant, accused No. 4 and 5, sisters in law of accused and accused No.6, relative (brother in law) of the husband. (3) That accused persons are very greedy persons and they were not happy with the dowry articles given by the family of applicant and after some days of marriage, accused started troubling and torturing the applicant and starting taunting the applicant for bringing more dowry and say that accused No.1 is trainer in Delhi and accused No.1 and 2 have got about 12 acres land in village Krawad and accused No.2 and 3 have got General Store and Grocery shop and accused No.1 draw salary of rupees one lac per month and besides above they have got other income of Rs. 1.50 lacs p.m. and they have got lot of property, therefore, you have got to give one Fortuner Car and rupees 21 lacs in cash. Accused No.1 used to say the applicant to bring one luxury Fortuner Car for accused No.1 and rupees 21 lacs in cash and diamond ring and for accused No.2 gold set and rings and for accused No.4 and 5 used to said that if you did not bring the above from your parents, then they will not let you settled in the house and daily used to give remarks in taunting way and was dishonored in front of relatives. After some days of marriage accused went to Delhi and did not pick up the applicant alongwith him and accused No.1 used to come to house after about 15-20 days and used to make unnatural relations with the applicant against her desire. (4) That thereafter the accused started ignoring the applicant completely and did not talk to the applicant directly and did not give the applicant the status and respect of daughter-in-law in the house, even to the extent they said to the relatives who came to meet that applicant is not fit and her status in the family is equivalent to domestic help. The applicant was disrespected in many ways and after the passing

of time the demands of the accused were not fulfilled the applicant was not given sometime meal even and upon being instigation the accused used to abuse the applicant. After the marriage the accused No.3 took up all the jewellery from the applicant on the pretext that she may take up if she go somewhere, but thereafter despite making request for the same, the jewellery was not given resultantly the applicant has been passing on the time by purchasing artificial jewellery. (5) That accused No.2 right from the very beginning was keeping an evil eye on the applicant from the very beginning and tried to touch the applicant on some pretext or the other and made obscene gestures. Accused No.2 has got lot of influence over the family and all the family members followed him. Accused No.2 by taking advantage of this situation, whenever she went to give water, tea, and then he tried to touch the applicant and used to say applicant that your husband is at Delhi and he had also kept with him a girl, hence you will live with me and develop physical relations with me, then nobody will ask you anything, otherwise, I will provoke my family against you to such an extent that they will turn you out of house. Accused No. 4 and 5 often provoke other accused against the applicant and always say to beat the applicant and turned the applicant out of house and says that we will arrange a relation of Tushar in some rich family and accused No.4 and 5 alongwith other accused used to beat the applicant. That when the applicant raised protest against such treatment and informed her husband accused No.1 and mother in law accused No.3, then she started saying what's the big deal in this. Thereafter, the courage of accused No. 2 became even higher and on some pretext or the other, he tried to get closer to the applicant and once or twice he caught hold of the applicant and started touching her private parts with bad intentions, but the applicant, to save her honour, raised noise and he went away. Whenever the applicant explained the incident to other accused, then the accused together did beating with the applicant and said if you dared to tell anything to anybody, then they will kill me. The money received by the applicant for the rituals etc. (Muh Dhikhae ritual) and given to applicant as a shagan, amounting to approximately 1lac accused No.3 snatched the above said amount immediately from the applicant after few days. (7) That whenever accused No.1 came from Delhi, then he used to ignore the applicant and used to beat the applicant mercilessly before all the accused and whenever the applicant complained to accused No.3 in this regard, then she used to say bad words to applicant and said if you did not fulfilled our demand, then you will be put to such problem that you will repent on account of

being alive. On 01.05.2023, the father of applicant, elder brother Vijay of applicant and uncle of applicant Mahesh Kumar and Uncle Tilak Raj went after paying Rs. 5 lacs cash to accused No. 3 to 5. (8) that whenever accused accompanied applicant to her parents' house, then the accused used to raise demand for gold jewellery and pass taunting remarks and since the demands of accused persons were not fulfilled i.e. their demand for cash of Rs. 21 lacs, Fortuner Car, and diamond and gold jewellery, then after beating the applicant turned out her from the matrimonial house many times by saying that if you dared to come without cash of Rs.21 lacs, Fortuner Car and diamond and gold jewellery, then they will kill you. On which, the parents of applicant requested the accused and left the applicant in her in laws and request them that on the marriage of applicant, they have already spent more than their worth and now nothing is left with them, but the accused did not listen to him and said that either fulfill our demand or else let your daughter sit in her parents house. The applicant kept tolerating the atrocities committed by the accused thinking that everything would get better with the passage of time, but there was no change in the behavior of the accused and the accused No.1 continued to torture the applicant mercilessly. With the passage of time, when the applicant was about two and a half months pregnant, on 20.06.2023, accused 1 to 3, in collusion with each other, beat the applicant mercilessly and hit her on her private parts due to which there was bleeding on her private parts and the applicant started suffering a lot of pain. But the accused did not get treatment of applicant done from Hospital rather accused No.3 brought two tablets for applicant and said that you should take these tablets, your pain will be get Okay and applicant was forcibly given the said tablets which resulted more deterioration of health of applicant. When the position of the applicant got bad to worse, applicant intimated her parents on phone about the situation and brother of the applicant came on 21.06.2023 to meet the applicant in the house of accused No.1, then accused No.1 to 6 raise hue and cry and snatched the mobile of applicant from her and also abused brother of the applicant and asked him to take the applicant alongwith him. The treatment of the applicant was got done, since there has been no improvement in the health of applicant on 26.06.2023 was got examined from Hisar in Hospital & Gynecologist Raj Prashar Hospital, Hisar and on 28.06.2023 the applicant was got aborted and still the applicant is under treatment. (9) That today on 29.06.2023, accused No.1 to 3 and 6, at about 12.00 P.M. came to the parents of the applicant and instantly started quarreling with family of

applicant and said to father of applicant that we are not going to settled down your daughter and closed the chapter and we have selected a girl for our son whose family is ready to spend rupees one crores to rupees one and a half crores on the marriage. When the father and brother of the applicant asked not to do such things and to go from the house, then accused No. 1, 2 and 6 brought iron rod, punch of iron with wooden handle and accused No.1 was wearing punch on his hand attacked brother of applicant which did not hit the brother of the applicant since he moved backside and accused No.1 to 3 and 6 torn out clothes of father and brother of applicant and accused No. 1 to 3 and 6 slapped and hit punch blow the father and brother of applicant and hit the brother of applicant with handle. At that time the maternal uncle of the applicant Mehesh Kumar resident of Hansi, uncle of applicant Tilak Raj, Vijay brother of applicant and father Ved Parkash and other members of the family were present. Accused No. 1 to 3 and 6 straightway refused to let settle the applicant in her matrimonial house and threatened that if applicant came back without fulfilling our demands, then we will kill her and also threatened the maternal uncle, father, brother and uncle (Mosa) to kill them. When applicant asked to return her Istri Dhan, then they also refused to return back the same. Therefore, while submitting the instant application, it is requested that FIR against the accused for demand of dowry, making unnatural relations, attempt to rape, molesting the applicant, treating her cruelly, getting her aborted, defaming her, assaulting the applicant and her family and threatening to kill her and strict legal action be taken. Sd/- Shweta Mehta-Applicant, aged 27 years, Wife of Tushar Khatri (son of Sh. Ved Parkash) resident of Village Gorakhpur, Tehsil & district Fatehabad, Mobile No.98135-67768, Dated 30.06.2023.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 16.11.2023 and investigation in the case already stands complete. Learned counsel has further argued that the FIR in question is actually a result of matrimonial discord between the petitioner (husband) and the complainant (wife). It has been further argued that the offence under Section 313 of IPC is not made out from the medical evidence brought on record by the prosecution. In this view of the matter, learned counsel has prayed for grant of regular bail.

4. Learned State counsel has opposed the present petition arguing that the allegations raised are serious in nature and thus the petitioner does not deserve the concession of the regular bail. Learned State counsel seeks to place on record custody certificate dated 01.03.2024 in Court, which is taken on record.

5. Learned counsel for the complainant has vociferously opposed the grant of regular bail by arguing that allegations against the petitioner (herein) are serious in nature and hence he ought not to be released on regular bail.

6. I have heard counsel for the parties and have gone through the available records of the case.

7. The petitioner was arrested on 16.11.2023 whereinafter investigation was carried out and challan stands presented on 07.12.2023. Total 15 prosecution witnesses have been cited and the culmination of the trial will take its own time. The rival contention of learned counsel for the parties, as to whether the FIR as also the challan presented by the Police are outcome of matrimonial discord between the parties & as to whether the offence under Section 313 of IPC is made out from the medical evidence brought forth by the prosecution, shall be gone into during the course of trial. This Court does not deem it appropriate to delve deep into these rival contentions, at this stage, lest it may prejudice the trial. Nothing tangible has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the prosecution evidence. As per custody certificate dated 01.03.2024 filed by learned State counsel, the petitioner has already suffered incarceration for a period of more than 3½

months & is not shown to be involved in any other case. Suffice to say, further detention of the petitioner as an undertrial is not warranted.

8. In view of above, the present petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. concerned CJM/Duty Magistrate. However, in addition to conditions that may be imposed by the concerned CJM/Duty Magistrate, the petitioner shall remain bound by the following conditions:-

- (i) The petitioner shall not mis-use the liberty granted.
- (ii) The petitioner shall not tamper with any evidence, oral or documentary, during the trial.
- (iii) The petitioner shall not absent himself on any date before the trial.
- (iv) The petitioner shall not commit any offence while on bail.
- (v) The petitioner shall deposit his passport, if any, with the trial Court.
- (vi) The petitioner shall give his cellphone number to the Investigating Officer/SHO of concerned Police Station and shall not change his cell-phone number without prior permission of the trial Court/Illaq Magistrate.
- (vii) The petitioner shall not in any manner try to delay the trial.

9. In case of breach of any of the aforesaid conditions and those which may be imposed by concerned CJM/Duty Magistrate as directed hereinabove or upon showing any other sufficient cause, the State/complainant shall be at liberty to move cancellation of bail of the petitioner.

10. Ordered accordingly.

11. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.
12. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(SUMEET GOEL)
JUDGE

March 04, 2024
Ajay

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No