

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

284

CRM-M No.13653 of 2024 (O&M)
Date of Decision: 23.04.2024

Shamshad ... Petitioner

Versus

State of Punjab and another ... Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Ishan Gupta, Advocate,
for the petitioner.

Mr. Amandeep Singh Samra, AAG, Punjab,
for the respondent-State.

Ms. Palvi, Advocate,
for the complainant.

MANISHA BATRA, J.(Oral)

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

FIR No.	Police Station	Sections
04	City I Malerkotla, District Malerkotla	376 (2) (n) and 328 of IPC

2. Brief facts of the case relevant for the purpose of disposal of the present petition are that the aforementioned FIR was registered on 11.01.2024 on the basis of statement recorded by the prosecutrix “T” (name withheld) alleging therein that she was married with one Mohd. Dilshad about four years back. Two children were born out of the wedlock. Quarrels used to take place between her husband and herself. She alleged that on 17.02.2023 while she was alone at home then the present petitioner who is her brother-in-law (nandoia) came to her house.

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She offered cold drink to him. She was asked by the petitioner to bring some salt which she brought from kitchen and thereafter both of them had cold drinks. As per the further allegations immediately thereafter, she had become unconscious and when she regained the same, she found herself on the bed. On asking, the petitioner told her that she had felt dizziness which might be out of fluctuation in her blood pressure. However, some days thereafter, he again came to her house and showed a video clip in which he could be seen having physical relations with her. By extending threat to make that video viral, he forced her to have physical relations with him and ravished her thereafter. She disclosed about the incident to her husband in the month of March but he advised her to not to say anything to anyone. She became pregnant and had given birth to a male child on 18.11.2023 and thereafter she along with her son was thrown out of her matrimonial house by her husband. After registration of FIR, investigation proceedings were initiated. The petitioner was arrested on 11.01.2024. Investigation has since been completed and challan has been presented in the Court. The petitioner had moved an application for grant of bail before the learned trial Court but the same was dismissed vide order dated 31.01.2024.

3. The present petition has been filed on the grounds and it is argued by learned counsel for the petitioner that he has been falsely implicated in this case. There is delay of 11 months in lodging of the FIR which has remained unexplained. Infact, the FIR is a result of a property dispute amongst the husband of the prosecutrix and his sister who happen to be the wife of the petitioner. It is the husband of the prosecutrix who has manipulated lodging of this FIR as against the present petitioner. It is also submitted that the prosecutrix has now sworn an affidavit in his favour in

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pursuance of a compromise effected on 15.01.2024. Even a petition for quashing of FIR on the basis of compromise between the parties has been filed and statement of the prosecutrix in the said quashing petition has been recorded as per which she has no objection if the FIR of this case is quashed. The petitioner is behind bars since 11.01.2024. The trial is likely to take time. There are no chances of petitioner's intimidating the witnesses if extended benefit of bail. Therefore, it is argued that he deserves to be released on bail.

4. Learned counsel for the petitioner has placed on record copy of order dated 13.03.2024 passed by a Coordinate Bench of this Court in CRM-M No.11046 of 2024 titled as *Shamshad v. State of Punjab and another* which reveals that a compromise has been taken place between the parties. He has also placed on record Annexure P-2 copy of agreement/compromise dated 13.01.2024, Annexure P-6 copy of statement of the prosecutrix recorded in the above named petition before the Court of learned trial Court affirming the factum of a compromise and stating that the same is genuine and has been made voluntarily and without any pressure or coercion from her side. Copy of statement recorded by the petitioner before the trial Court in compliance of order dated 13.03.2024 has also been placed on record as Annexure P-7.

5. As per status report and as argued by learned State counsel, there are serious allegations against the petitioner, and, therefore, he does not deserve to be released on bail.

6. Learned counsel for respondent No.2, on the other hand, has submitted that she has no objection if the petitioner is extended benefit of bail since the matter stands compromised between the parties and even in

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petition filed by the present petitioner for quashing of FIR, the prosecutrix has recorded statement in her favour.

7. I have heard learned counsel for the parties and have gone through the record carefully.

8. Though the veracity of Annexure P-3 which is claimed to be an agreement of mutual compromise arrived at between the parties cannot be considered by this Court, however, documents placed on record by the petitioner in the form of Annexures P-5 to P-7 prove that a petition for quashing of same FIR which is the subject matter of this case has been filed by the petitioner and the prosecutrix has recorded her statement in favour of the petitioner in that case before the trial Court. Taking in view the above discussed facts coupled with the fact that no useful purpose would be served by keeping the petitioner in custody any more as well as the period of his incarceration, I am of the considered opinion that the petitioner deserves to be released on bail at this stage. Hence, the petition is allowed and the petitioner is ordered to be admitted to bail subject to his furnishing personal as well as surety bonds to the satisfaction of learned trial Court.

9. A copy of this order be sent to the concerned Court for necessary compliance.

10. It is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

23.04.2024
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(MANISHA BATRA)
JUDGE

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