

Daljit Singh vs State Of Haryana on 12 July, 2021

Equivalent citations: AIRONLINE 2021 P AND H 577

Author: Alka Sarin

Bench: Alka Sarin

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-6910-2021 (O&M)
Date of decision : 12.07.2021

Daljit Singh

.....Petitioner

versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr.Parminster Singh, Advocate for the petitioner

Ms. Ambika Sood, Addl. AG Haryana

Mr. Viney Saini, Advocate for the complainant

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ALKA SARIN, J.

Heard through video conferencing.

This is the second regular bail petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of bail in FIR No.205 dated 29.10.2020 (Annexure P-1) under Sections 323, 406, 498A, 376, 511, 496, 506 of the Indian Penal Code, 1860 registered at Police Station Nigdu, District Karnal. The first petition under Section 439 CrPC (CRM- M-42438-2020) was dismissed as withdrawn on 21.12.2020.

The petitioner is the husband of the complainant. The other accused persons named in the FIR are the father-in-law, brothers-in-law and sisters-in-law of the complainant. As per the allegations in

the FIR 1 of 7 dated 29.10.2020 (Annexure P-1), the petitioner and the complainant were married on 23.02.2014 as per Sikh rites and ceremonies and there is a five year old son out of the wedlock. The complainant alleges that her father spent around rupees twenty five lakhs on the wedding on the asking of the accused. A Maruti Celerio car, a Splendor motorcycle, gold ornaments, istridhan was given to the accused. It is alleged that right from the beginning the accused blamed the complainant for bringing less and inferior dowry, that they had demanded an Innova car instead of the Maruti Celerio given, rupees twelve lakhs was demanded for purchasing a flat in Mohra. After three months the petitioner started beating the complainant and started remaining in an inebriated state and used to beat the complainant in a drunken state. When the complainant brought this to the notice of the other accused they instead started blaming the complainant. It is alleged that when the state of the petitioner deteriorated because of his addiction, the in-laws of the complainant got the petitioner admitted in a drug de-addiction centre for two years. During this period the brother-in-law (accused no.3) of the complainant started making advances towards her and wanted to develop illicit relations. Even the other brother-in-law (accused no.5) made advances towards her and forced her to have illicit relations with her. When the complainant brought the acts of her brothers-in-law (accused nos.3 and 5) to the notice of her sister-in-law (accused no.6) she, instead of counselling the brothers-in-law, started siding with them and threatened the complainant that she has illicit relations with them or she would lose her life. The complainant was harassed and beaten by the accused for about four years.

2 of 7 It is alleged that the mother-in-law of the complainant died on 22.08.2019 when her parents and relatives had visited her in-laws house and brought to the notice of the accused the atrocities being committed on the complainant when the accused had sought forgiveness and assured them that the complainant would not be harassed in future nor any demand for dowry would be made nor she would be beaten. On 01.12.2019 when the complainant was sleeping at night alone in her room her brother-in-law (accused no.3) forcibly entered her room and laid down next to her while she was sleeping and started molesting her to attempt committing rape on her. The complainant made noise and wife of the accused no.3 i.e. her sister-in-law (accused no.4) came and instead of admonishing her husband started beating the complainant. The petitioner was not at home on that day and when he came home in the morning the complainant told him about the incident of the previous night when all the accused gathered and locked the complainant in her room and beat her with sticks, kicked her, boxed her which caused her injuries and her left eye was injured and she lost her vision. The complainant rang up her home and her mother came and took her and seeing her condition she was taken to PGI Chandigarh where her eye was operated upon. The other injuries suffered by the complainant were also got treated. A panchayat was held at the house of the accused who abused the complainant and the other persons who had come and threatened that the complainant should bring Innova car and rupees twelve lakhs for the plot otherwise she would not be allowed to enter the house and took the istridhan of the complainant in their possession and locked the room of the complainant and asked 3 of 7 everyone to leave otherwise they would be killed. The complainant returned to her home and has been staying at her parents house since then. It is also alleged that the petitioner was convicted earlier, which fact was hidden before the marriage by the accused, and he threatens the complainant that he has committed murder earlier and will also kill the complainant.

The counsel for the petitioner has urged that the petitioner has been falsely implicated in the case. The complainant has levelled false allegations against the petitioner and his family members many years after their marriage, the Maruti Celerio car was sold by the father of the complainant and the motor cycle was sold by the husband and wife after agreement. He has contended that the FIR was filed after a long delay and there are no dates given therein about when the complainant was maltreated or beaten. There was no injury to the eye of the complainant as alleged in the FIR and infact she had a pre-existing problem in her left eye which she got treated in December 2019. He has also contended that after the withdrawal of the first petition for regular bail the circumstances have changed as the investigation stands completed and final report under Section 173 CrPC has been presented in Court.

Learned State counsel has opposed the bail petition and has relied upon the averments made in the status report dated 02.03.2021 and the short reply filed by the State. In the status report it is inter-alia averred that during the course of investigations the statement of the complainant was recorded and Sections 376/511 IPC were added. An application for medical examination of the complainant was moved before the Medical 4 of 7 Officer but the complainant refused to get her medical examination conducted. The statement of the complainant under Section 164 CrPC was recorded by the Magistrate. Thereafter, on the basis of the investigations, no involvement of Jasbir Kaur (accused no.4), Jasbir Singh (accused no.5) and Manjit Kaur (accused no.6) was found and they were kept in Column No.2. The petitioner and accused no.3 were arrested on 17.11.2020 while accused no.2 was arrested on 07.01.2021. On the basis of the disclosure statement suffered by the petitioner the dowry articles were recovered and were released to the complainant on superdari. It is also stated that the Maruti Celerio car was sold by the father of the complainant for Rs.2,50,000/- while the motorcycle was sold by the complainant and the petitioner by mutual consent. The challan has been prepared against the petitioner and accused nos.2 and 3 and has been submitted in Court though the charges are yet to be framed. The status report also mentions that in FIR No.54 dated 23.02.2007 under Sections 323, 324, 302 IPC the petitioner was convicted for life imprisonment vide order dated 15.05.2009 passed by the Additional Sessions Judge, Ambala which, on appeal by the petitioner, was modified to one under Section 304(II) IPC by this Court vide order dated 31.07.2013 and the sentence was reduced to one already undergone. In the short reply filed by the State the medico legal case summary of the complainant prepared by the Government Medical College and Hospital, Sector 32, Chandigarh has been put on record according to which the complainant had undergone an elective surgery of the left eye. It is argued that the petitioner is a habitual offender and has committed serious offences, the charges are yet to be framed and 5 of 7 several witnesses are to be examined, the petitioner may abscond or influence the witnesses and, therefore, the petitioner ought not to be released on bail.

Counsel for the complainant has argued on the same lines as the State counsel and also submitted that the complainant was badly beaten by the petitioner and her left eye was also damaged. She was harassed and subjected to taunts and beatings for not bringing sufficient dowry and the accused demanded more dowry from her and her parents. The complainant was sexually harassed by none other than her brothers- in-law and thus the petitioner be not granted any bail.

I have heard learned counsel for the parties.

In the present case the last incident reported by the complainant is of 01/02.12.2019 whereas the FIR was lodged on 29.10.2020. The dowry articles have been recovered and stand returned to the complainant on superdari. The complainant refused to undergo a medical examination and as per the hospital she underwent an elective surgery on 04/05.12.2019. The allegations of sexual harassment and rape are not against the petitioner. The father of the complainant himself sold the Maruti Celerio car while the motorcycle was sold by the complainant and petitioner by choice. No doubt the petitioner stands convicted for an offence under Section 302(II) IPC and has undergone the sentence qua the same. However, there is no other case against him after 2007. The investigations stand completed and no further recoveries are to be made.

In view of the above and without commenting upon the merits of the case and considering the fact that the trial is likely to take 6 of 7 some time to conclude especially in view of the prevailing conditions on account of COVID-19 Pandemic and also the fact that the petitioner has been behind bars since 17.11.2020, no useful purpose would be served by keeping the petitioner behind the bars any further. This Court, therefore, deems this to be a fit case for grant of regular bail to the petitioner. The petitioner is directed to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the Illaqa Magistrate/Duty Magistrate/Trial Court concerned.

However, the Prosecution will always be at liberty to apply for cancellation of bail in case the petitioner is found to be misusing the concession of bail in any manner.

It is also made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.

Disposed off.

July 12, 2021
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(ALKA SARIN)
JUDGE

NOTE:

Whether speaking/non-speaking: Speaking

Whether reportable: YES/NO