

(2023) 06 SHI CK 0090

In the High Court Of Himachal Pradesh

Case No : Criminal Miscellaneous Petition (Main) No. 1539, 1542 Of 2023

Chandrawati And Others

APPELLANT

Vs

State Of H.P

RESPONDENT

Date of Decision : 28-06-2023

Acts Referred:

Indian Penal Code, 1860 — Section 34, 313, 498A
Code Of Criminal Procedure, 1973 — Section 164, 439, 482

Citation : (2023) 06 SHI CK 0090

Hon'ble Judges : Virender Singh, J

Bench : Single Bench

Advocate : Nand Lal Thakur, Mohinder Zharaick, H.S. Rawat, Avni Kochhar

Judgement

Virender Singh, J

1. Both the above mentioned applications are disposed of by the common order, as, both these applications have been filed in case FIR No. 48, dated 05.06.2023, under Sections 498A, 313 read with Section 34 of the Indian Penal Code, registered with Police Station, Janjehli, District Mandi, H.P.
2. The applicants have filed these applications, under Section 439 of the Code of Criminal Procedure (hereinafter referred to as 'Cr.PC'), for releasing them on bail, during the pendency of trial, in case FIR, as mentioned above.
3. The applicants, although, have not approached the Court of learned Sessions Judge, however, learned counsel appearing for the applicants has submitted that the matter has been compromised between the parties and in pursuance of the said compromise, petition under Section 482 Cr.P.C has been filed on behalf of the complainant.
4. In the normal course of events, the present applications, on behalf of the applicants, without approaching the Court of learned Sessions Judge, would not have been entertained, however, considering the fact that the complainant has filed the petition for quashing of FIR in question before this Court, the present

applications are taken up for consideration.

5. The applicants have sought the release in the above-mentioned FIR on the ground that they are innocent persons and have not committed the offences, for which, they have been arrested. The investigation in the case is almost complete. Moreover, when the complainant herself has filed the petition for quashing of FIR under Section 482 Cr.P.C., then, relegating back the applicants to approach the Court of learned Sessions Judge for seeking the relief, would add insult to their injuries. Learned counsel for the applicants has also placed on record copy of the petition under Section 482 Cr.P.C.

6. On the basis of above facts, a prayer has been made to release them on bail, during the pendency of the trial.

7. When put to notice, the police has filed the status report disclosing therein that on 05.06.2023, complainant approached the police by moving a complaint disclosing therein that she has been married with Het Ram on 13.11.2022. After the marriage, the complainant has been kept nicely by her husband only for one month and thereafter, the applicants, as per the complaint, had started demanding dowry from her and also started taunting that she had brought inadequate dowry as per their expectation.

7.1. It is her specific case that one day, her husband and mother-in-law had forced her to consume some tablets so that foetus in her womb would be aborted and when, she refused to consume the tablets, then, she was beaten. On 06.03.2023, complainant was beaten by her husband and thereafter, he fled away to Manali. On that day, the complainant was also beaten by her mother-in-law. Thereafter, the complainant left the matrimonial home and started residing with her parents. The parents of the complainant had also tried to approach Het Ram, the husband of the complainant, but he did not respond to the telephonic call. Neither her husband Het Ram took her back to the matrimonial home nor compromise has been effected between them.

7.2. On the basis of above facts, she has prayed that action be taken against them.

7.3. On the basis of above facts, the police registered the FIR in question and criminal machinery swung into motion. The complainant was sent for medical examination and the doctor has given the following report:-

"According to the USG pelvis and Radiologist opinion there is no Ep G.Sac.ROPC/ Signs of Abortion with mild free fluid in pelvis. According to Gynaecologist opinion presently clinically there is no evidence of pregnancy. Gynaecologist and Radiologist did not give any opinion on if Abortion happened 3 months back or not on if she has taken any Abortion pills 3 months back."

7.4. The complainant was also produced before the competent Court for recording her statement under Section 164 Cr.P.C.

7.5. The applicants have also tried their luck by moving application for anticipatory bail before the learned Special Judge, Mandi, however, the applications were rejected on 15.6.2023.

7.6. The applicants were arrested on 15.06.2023 and presently they are in judicial custody.

8. On the basis of above facts, a prayer has been made to dismiss the applications.

9. Heard.

10. The role allegedly played by the applicants in the commission of the offences, will be proved during the course of trial. Moreover, considering the fact that the complainant herself has filed a petition under Section 482 Cr.P.C for quashing of FIR, in view of compromise effected between them, no useful purpose would be served by keeping them in judicial custody.

11. Considering all these facts, this Court is of the view that the bail applications are liable to be allowed and are accordingly allowed.

12. The applicants are ordered to be released on bail in case FIR No. 48, dated 05.06.2023, under Sections 498A, 313 read with Section 34 of the Indian Penal Code, on their furnishing personal bail bond, in the sum of Rs. 50,000/- each, with one surety each of the like amount, to the satisfaction of learned JMFC/ Ilaqua Magistrate stationed at Mandi. This order, however, shall be subject to the following conditions:

- a) They shall make themselves available for the purpose of interrogation, if so required and regularly attend the trial Court on each and every date of hearing and if prevented by any reason to do so, seek exemption from appearance by filing appropriate application;
- b) They shall not tamper with the prosecution evidence nor hamper the investigation of the case in any manner whatsoever;
- c) They shall not make any inducement, threat or promises to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or the Police Officer; and
- d) They shall not leave the territory of India without the prior permission of the Court.

13. Any of the observations, made hereinabove, shall not be taken as an expression of opinion, on the merits of the case, as these observations, are confined, only, to the disposal of the present bail application.

14. It is made clear that the respondent-State is at liberty to move an appropriate application, in case, any of the bail conditions, is found to be violated by the applicants.

15. The Registry is directed to forward a soft copy of the bail order to the Superintendent of Jail, Mandi through e-mail, with a direction to enter the date of grant of bail in the e-prison software.

16. In case, the applicants are not released within a period of seven days from the date of grant of bail, the Superintendent of Jail, Mandi is directed to inform this fact to the Secretary, DLSA, Mandi. The Superintendent of Jail, Mandi is further directed that if the applicants fail to furnish the bail bonds, as per the order passed by this Court, within a period of one month from today, then, the said fact be submitted to this Court.