

(2020) 07 SHI CK 0087

In the High Court Of Himachal Pradesh

Case No : Criminal Miscellaneous Petition (M) No. 1110 Of 2020

Roshan Lal

APPELLANT

Vs

State Of Himachal Pradesh

RESPONDENT

Date of Decision : 21-07-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 161, 164, 438
Indian Penal Code, 1860 — Section 376, 506

Citation : (2020) 07 SHI CK 0087

Hon'ble Judges : Jyotsna Rewal Dua, J

Bench : Single Bench

Advocate : Vinod Chauhan, Manoj Bagga

Final Decision : Disposed Of

Judgement

Jyotsna Rewal Dua, J

1. Petitioner has prayed for grant of bail under Section 438 of the Code of Criminal Procedure in FIR No. 105, dated 29.6.2020, registered at Police Station, Gohar, District Mandi under Sections 376 and 506 of the Indian Penal Code. In view of the averments made in the bail petition, interim protection was granted to the petitioner vide order dated 10.7.2020 subject to conditions mentioned therein.
2. I have heard learned counsel for the parties and gone through the status reports filed by the respondent-State.
3. According to the status reports, the prosecutrix, aged 31 years along with her husband came to the Police Station, Gohar on 29.6.2020 with the complaint that 15 days ago she was raped by the petitioner. However, fearing loss of reputation in society, she did not report the incident at that time to the police. But because of repeated threats subsequently given by the petitioner for doing away her life as well as for committing rape upon her, she was compelled to report the matter to the police. On the basis of these allegations, instant FIR was registered

against the petitioner.

4. Statement of prosecutrix was recorded under Section 164 of the Code of Criminal Procedure wherein she stated that on 14.6.2020 while she was working in the field using a sickle, her hands were grabbed from behind by the petitioner. He dragged her to a nearby cow-shed. Her efforts to escape failed. She could not even cry as her mouth was gagged by the petitioner with Dupatta. The petitioner raped her there and also threatened her of dire consequences/including doing away her and her family members' lives in case of reporting of the incident. Statement of witnesses were recorded by the police under Section 161 Cr.P.C.

5. According to status report, the bail petitioner had consumed poison and was referred from CH, Gohar to ZH, Mandi and thereafter to IGMCH, Shimla Interim protection was granted to the petitioner by this Court vide order dated 10.7.2020. According to the latest status report, placed on record today by the respondent-State, the petitioner has since been discharged from the hospital and has joined the investigation and is co-operating with the Investigating Agency.

6. Learned counsel for the petitioner submitted that petitioner has been falsely implicated with the offences alleged against him. Learned counsel further submitted that bail petitioner is aged around 48 years and married. On 29.6.2020 i.e. the day of alleged incident reported by the prosecutrix, he was in Mandi in a hospital where his pregnant daughter was admitted. He further submitted that the petitioner will not influence the prosecution witnesses and the evidence in any manner whatsoever and will continue to join and co-operate with the investigation. He also submitted that a complaint was also lodged by the bail petitioner against the prosecutrix, on the basis of which an FIR has been registered against her after the discharge of the petitioner from the hospital.

7. According to the status report, prosecutrix is married and aged about 31 years. She had come to the Police Station for lodging the complaint along with her husband. The incident according to her had happened 15 days prior to the lodging of the complaint. Though at this stage detailed examination of the statements of witnesses and that of prosecutrix is to be avoided lest it causes prejudice to the cases of either parties, however, it may be noticed that no effective explanation for the delay in complaining about such an incident has been given.

In view of the nature of the allegations levelled by the prosecutrix and the submission made at this stage on behalf of the petitioner and also the fact that the petitioner has already joined the investigation and is co-operating with the same, no fruitful purpose will be served in this case for sending him to judicial custody. Therefore, the interim order dated 10.7.2020 is made absolute subject to following conditions:

(i) The petitioner shall join the investigation of the case as and when called for by the Investigating Officer in accordance with law and shall cooperate with the Investigating Agency.

(ii) The petitioner shall not temper with the evidence or hamper the investigation in any manner whatsoever:

(iii) The petitioner shall not contact the complaint, threaten or browbeat her or to use any pressure tactics in any manner whatsoever.

(iv) The petitioner shall not leave India without prior permission of the Court.

(v) The petitioner shall not make any inducement, threat or promise, directly or indirectly, to the Investigating Officer or any person acquainted with the facts of the case to dissuade her from disclosing such facts to the Court or any Police Officer;

In case of violation of any of the terms & conditions of the bail, respondent-State shall be at liberty to move appropriate application for cancellation of the bail. It is made clear that observations made above are only for the purpose of adjudication of instant bail petition and shall not be construed as an opinion on the merits of the matter.

With the aforesaid observations, the present petition stands disposed of, so also the pending miscellaneous applications, if any.

The parties shall not insist upon for obtaining certified copy of this order and shall download the same from the website of the High Court. However, the Registry is directed to send coy of this order to learned counsel for the parties through email subject to furnishing email addresses by them, if so required.