

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **Bail Appl. No.1094/2008**

% **Date of Decision: 05.09.2008**

Harkishan Petitioner

Through Mr.Rono Mohanty, Advocate

Versus

State Respondent

Through Mr.Amit Sharma, APP for the State.
Mr.P.S.Tomar, Advocate for the
complainant along with complainant in
person.
SI Suresh Chand.

CORAM:

HON'BLE MR. JUSTICE ANIL KUMAR

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| 1. | Whether reporters of Local papers may be allowed to see the judgment? | YES |
| 2. | To be referred to the reporter or not? | NO |
| 3. | Whether the judgment should be reported in the Digest? | NO |

ANIL KUMAR, J.

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This is a petition under Section 438 of Criminal Procedure Code seeking anticipatory bail. The contention of the petitioner is that he is a Government servant aged about 40 years and he had been residing separately and not concerned with the dispute between the husband and wife. The petitioner has also produced the copy of the ration card reflecting that he had been residing separately. By order dated 31st March, 2008 before the Sessions Judge it was stated that whatsoever

articles of the respondent No.2/applicant are with the petitioner, be returned by him and consequently the matter was listed on 22nd April, 2008.

The learned counsel for the petitioner has pointed out that the seizure memo dated 9th April, 2008 was prepared stipulating that 11 articles were returned by the petitioner and taken by police as the complainant had declined to take them. Despite the return of the articles by the petitioner the application for anticipatory bail was dismissed by the Sessions Judge by order dated 22nd April, 2008 on the ground that there is no change in the circumstances for grant of anticipatory bail.

The learned counsel for the respondent No.2/applicant on instructions from the complainant states that the articles which has been returned are not her articles and she is not ready to accept them. The learned counsel for the petitioner states that he has no other articles.

It is also contended that the complainant had implicated eight members including the husband out of which only the petitioner has not been granted bail and others are on bail. The fact that other family members have been released on bail has not been denied. This Court had also granted interim anticipatory bail to the petitioner subject to

his furnishing a personal bond in the sum of Rs.10,000/- with one surety of like amount to the satisfaction of the Investigating Officer.

The learned counsel for the complainant contends that the petitioner had alleged that the children of the complainant are not fathered by his brother that is the husband of the complainant. In a complaint under Section 498A of the Indian Penal Code the petitioner cannot be denied bail even if such an allegation has been made by the petitioner which is, however, denied by him.

In the totality of facts and circumstances, the petition is to be allowed. Consequently, in the event of his arrest the petitioner be released on furnishing a personal bond in the sum of Rs.10,000/- with one surety of like amount to the satisfaction of the Arresting Officer/Investigating Officer. The petitioner shall appear before the Investigating Officer as and when directed by him and shall not influence any of the witnesses in any manner.

Petition is disposed of.

Dasti.

September 05, 2008
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ANIL KUMAR, J.