

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

+ **BAIL APPLICATION NO.611/2009**

Reserved on : 16.9.2009
Date of Decision : 25.9.2009

MANISH KAPOOR

.....Petitioner

Through: Mr.Rakesh Wadhwa,
Advocate

Versus

STATE

..... Respondents

Through: Mr. Jaideep Malik, APP
for the State.

**CORAM :
HON'BLE MR. JUSTICE V.K. SHALI**

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| 1. | Whether Reporters of local papers may be allowed to see the judgment? | NO |
| 2. | To be referred to the Reporter or not ? | NO |
| 3. | Whether the judgment should be reported in the Digest ? | NO |

V.K. SHALI, J.

1. This is an application for grant of anticipatory bail by the petitioner herein in FIR No.20/2009 u/s 406/498A/34 IPC registered at CWC Nanakpura.
2. I have heard the learned counsel for the petitioner as well as the learned APP for the State and have gone through the record.
3. Briefly stated the facts of the case are that the petitioner was married to the complainant on 10.11.2003 and from the said wedlock, they were blessed with a female child on 01.2.2008. It is alleged by the complainant that right from inception of marriage, she was subjected to demand of

dowry which resulted in physical and mental cruelty. It is alleged by her that she was thrown from her matrimonial home and all her efforts to reconcile also did not yield in any result.

4. In the complaint not only the allegations were made against the present petitioner/husband but allegations were also levelled against almost the entire family of the petitioner including his parents, sister, sister in law, etc. The entire family applied for grant of anticipatory bail before the Court of ASJ which prayer was accepted but except that all the relatives of the petitioner were granted anticipatory bail except the petitioner.
5. Being aggrieved by the rejection of the anticipatory bail application, the petitioner has filed the present petition. During the course of pendency of the present petition for grant of bail, the petitioner had volunteered to give a sum of Rs.60,000/- to the complainant by way of two demand drafts on 2.4.2009 apart from the fact that he had conceded that he would be giving a consolidated sum of Rs.5,000/- per month w.e.f. 01.4.2008. The aforesaid amount of Rs.60,000/- was towards the payment of maintenance. This amount was paid by the petitioner in order to show his bonafides.
6. On 8.7.2009, the petitioner had further paid a sum of Rs.5,000/- to the complainant.

7. The matter was referred to the mediation to bring about the reconciliation between the parties as the petitioner had filed a petition for restitution of conjugal rights and the complainant was also not keen to part company with the petitioner. However, the mediation could not bring about the reconciliation between the parties and the petitioner had during the pendency of the proceedings offered to pay a sum of Rs.4 lacs towards full and final settlement of the entire claim of permanent alimony, maintenance etc. to the complainant and his child. This was not acceptable to the complainant.
8. The learned counsel for the complainant has contended that since all the five family members against whom the allegations have been levelled have been enlarged on anticipatory bail, there is no reason to deny the said benefit to the petitioner who has not misused the interim protection granted to him by this Court. Further in order to show his bonafides, he has not only returned the dowry articles which were given to the complainant by her parents and the family of the petitioner but he had also sincerely made offer to bring about the reconciliation which failed to yield any result.
9. It was contended by counsel for the petitioner that merely because the allegations have been levelled against the petitioner, he should not be denied the bail as a punitive

measure and if at all he is found guilty after the trial he will face the consequence of the same.

10. Learned counsel for the complainant admitted that though the dowry articles have been returned but it was contended that the jewellery have still not been returned to her. The learned APP has contended that the custodial interrogation may be necessary for effecting the recovery of the jewellery articles and therefore, the benefit of anticipatory bail should not be given to the petitioner.
11. Keeping in view the fact that the dowry articles though not consisting of jewellery have been returned by the petitioner and the fact that he has voluntarily agreed to pay a sum of Rs.5,000/- per month towards maintenance of his infant child and the fact that he is cooperating with the investigation, I feel that there is no compelling reason to deny him the benefit of anticipatory bail, as has been extended to other family members.
12. I, therefore, direct that the petitioner in the event of his arrest shall be released on bail on personal bond in the sum of Rs.25,000/- with one surety of the like amount to the satisfaction of the IO/SHO in the event of his arrest. The petitioner shall however, not try to influence the witnesses or extent threats either to the complainant or to her parents or in any manner impede the investigation.

13. The petitioner has voluntarily agreed to pay a sum of Rs.5,000/- by way of maintenance for his own infant child which I hope and trust, he would continue to do so even after passing of this order till the time the parties obtain appropriate order or get the same modified from the competent Court of law.
14. It is also directed that the petitioner shall clear the entire arrears of maintenance payable at the aforesaid rate till 30.9.2009 within 15 days from today and continue to pay for succeeding English Calendar month on or before 7th of each of the following English Calendar month. The petitioner shall obtain a regular bail from a Competent Court of law within 90 days from today.
14. Accordingly, the bail application is allowed.

V.K. SHALI, J.

SEPTEMBER 25, 2009
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