

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

Judgment delivered on: February 24, 2011

+ **CRL.M.C. NO.1051/2010, CRL.M.C.NO.1052/2010  
CRL.M.C. NO.1053/2010 & CRL.M.C.NO.1054/2010**

**KANIKA NARANG NEE PASRICHA ....PETITIONER**

Through: Mr.Harsh Jaidka, Advocate.

Versus

**STATE (N.C.T. OF DELHI) & ORS. ....RESPONDENTS**

Through: Ms.Santosh Kohli, APP.

Mr.Sewa Ram, Advocate with  
Mr.R.K.Bachchan, Advocate.

**CORAM:**

**HON'BLE MR. JUSTICE AJIT BHARIHOKE**

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not ?
3. Whether the judgment should be reported in Digest ?

**AJIT BHARIHOKE, J.(ORAL)**

1. Above referred four petitions are filed by the petitioner Kanika Narang Nee Pasricha, seeking cancellation of anticipatory bail granted to the respective respondents namely Manrich Singh Narang, Ritika Mishra, Jatinder Kour Narang & Rajinder Singh Narang, in the aforesaid

petitions, vide order dated 05<sup>th</sup> February, 2010 in FIR No. 17/2010, P.S. Crime Against Woman Cell under Sections 406/498A/34 IPC.

2. Learned counsel for the petitioner has referred to the impugned order dated 05.02.2010 granting bail to the respondents named above and submitted that on reading of the bail order, it would be seen that it is bereft of reasoning, as such, the order is liable to be quashed. In support of this contention, he has relied upon the judgment of Supreme Court in **Gajanand Aggarwal Vs. State of Orissa**, 2006 CriLJ 4618 (SC), **Brij Nandan Jaiswal Vs. Munna & Ors.**, 2009 CriLJ 833 (SC) and **Puran Vs. Rambila & Ors.**, 2001 CriLJ 2566 (SC). Learned counsel submitted that perusal of the status report filed by the Assistant Commissioner of Police, Special Police Unit for Women & Children, Nanakpura, New Delhi prima facie, shows the commission of offences under Sections 498A & 406 IPC read with Section 34 IPC by the respondents named above. The dowry articles misappropriated by the respondents are yet to be recovered and the matter is pending investigation, therefore, the Trial Court ought not have granted bail to the respondents, particularly when their custodial interrogation may be required for recovery of the misappropriated articles.

3. Learned Sh. Sewa Ram, Advocate appearing for the above noted respondents in respective petitions, on the contrary, has submitted that the Trial Court granted bail to the respondents after due application of mind and he has referred to the merits of the case in the

order. Learned counsel submitted that learned Additional Sessions Judge, while granting anticipatory bail to the above named respondents in respective petitions vide impugned order dated 05<sup>th</sup> February, 2010 has referred to an Agreement dated 27<sup>th</sup> July, 2009 signed by the petitioner and her parents and also to certain SMSs allegedly sent by the complainant to the respondent Manrich Singh Narang on various dates, which clearly indicates that he has considered the merits of the case before passing order of anticipatory bail in favour of the respondents. Learned counsel further argued that the learned Additional Sessions Judge perhaps has refrained from reproducing the contents of the SMSs in his order for the reason that those SMSs are abusive and the language used is not civil. Thus, he has pressed for rejection of the petition for cancellation of bail granted to the respondents.

4. I have considered the rival contentions. There can be no dispute about the legal position that the High Court has ample power under Section 439(2) of the Code of Criminal Procedure to cancel the bail order granted to the any person and direct his arrest. The issue which arises for determination is whether the learned Additional Sessions Judge, while granting anticipatory bail, considered merits of the case? In order to appreciate the contention of the parties, it would be appropriate to reproduce the impugned order of learned Additional Sessions Judge, Dwarka Courts, New Delhi, which inter alia, reads thus:

“Heard. File perused.

Complainant was married to Manrich on 25.5.09 according to Hindu rights and ceremonies. Ld. Counsel for the applicant has drawn the attention of this court to various SMSs allegedly sent by the complainant to Manrich on various dates. He has also drawn the attention of this court to the agreement dated 27.7.09 signed by the complainant and her parents.

Considering the facts and circumstances of this case, applicant be released on bail, in the event of his arrest, on his furnishing PB and SB in the sum of ₹10,000/- to the satisfaction of IO/SHO concerned and subject to the condition that applicant shall join the investigation as and when required by the police.

A copy of this order be given dasti to the applicant.”

5. On plain reading of the aforesaid impugned order, it is evident that the learned Additional Sessions Judge was motivated to grant anticipatory bail under Section 438 Cr.P.C. to respective respondents on consideration of the text of SMSs purportedly sent by the complainant/petitioner to respondent Manrich Singh Narang on various dates as also an Agreement dated 27<sup>th</sup> July, 2009, purportedly signed by the complainant and her parents. Therefore, it cannot be said that impugned order was passed without considering the merits of the case.

6. Copy of the aforesaid Agreement dated 27<sup>th</sup> July, 2009 is placed on record as Annexure P-3, which reads thus:

“I agree to my mistakes and assure you and your family that I will never, in future, shout, scream, nor use abusive language nor indulge in physical attack on any of your family members nor threaten to kill you or your family members, or get any of you killed.

I also promise and assure you and your family members that I will never threaten to burn the matrimonial home nor try to commit suicide and leave behind a note stating that you all are responsible for my death.

I also assure you and your family not to fear, and worry, from my past acts of violence, threatening and abuses.

I and my parents, assure and guarantee, all your family members that, at present, I am not suffering from any type of illness, mental disorder, or psychiatric illness

Neither you nor your family members have asked me to bring any dowry. I am in possession of all the gifts, given to me by my parents and by your parents, including the Maruti-FX Car, Fixed Deposit Receipt etc.

I and my parents assure and guarantee all of you, that I will never cause any type of nuisance and disturbance in your family, nor cause any type of embarrassment. Please allow me this last chance”.

If the contents of the aforesaid document are correct, then prima facie, there was no dowry demand till 27<sup>th</sup> July, 2009 and the petitioner was in possession of her ‘*Streedhan*’ including Maruti-SX Car and Fixed Deposit receipt etc.

7. Respondents have also placed the text of several SMSs sent by the petitioner to her husband namely Manrich Singh Narang. Texts of some of those are reproduced below:

“I am sorry.... for morning wud not repeat again. I promise. I love u a lot.”

(I am sorry for morning would not repeat again. I promise. I love you a lot.]”

“Manrich I still love u and shall always love u. But marrying u I think was one of my biggest mistake. I want to come just for u bt I don’t want to a part of this mess. Don’t worry u and our manraj wud always b close to my heart. U are free from my side. I m starting my new life without u bt with d memories.”

[Manrich I still love you and shall always love you. But marrying you I think was one of my biggest mistake. I want to come just for you but I do not want to be part of this mess. Do not worry.

You and our Manraj (planned child) would always be close to my heart. You are free from my side. I am starting a new life without you but with the memories.]

"Listen u jerk moran, useless and filthy creature. Don't call my dad ever."

"U r even worse than my exs. Atleast they pick my phone"

"Madarchod agar ek baap ka hain tu fone utha"

"U r one bstrd of a guy. I made a mistake marrying u. I still love my x. He is 1000 times btr thn u. U bloody dog. I hate being with u. U r a poor son of a bitch. Fuck off. Get out of my life."

8. It is not denied that the above noted agreement bears the signature of petitioner and her parents. The stand of the petitioner is that the signatures were appended by her and her parents on the said agreement already available with the respondent No.2 under duress. The reading of the above noted text of SMSs purportedly sent by the petitioner to her husband, however tells a different story. Thus, under the circumstances, I do not find any infirmity in the impugned order of learned Additional Sessions Judge granting anticipatory bail to the respondents. There is no allegation that the respondents have violated the terms of bail or that they have tried to abscond or interfere with the investigation. Thus, under the circumstances, I find no justification in the petitions for cancellation of anticipatory bail granted to the

respondents named above, vide impugned order dated 05<sup>th</sup> February, 2010.

9. Petitions are accordingly dismissed.

**(AJIT BHARIHOKE)**  
**JUDGE**

**FEBRUARY 24, 2011**  
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