

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM No. M-10562 of 2015

Date of decision:- August 03, 2015

Gaurav Sharma

.....Petitioner..

Vs.

State of Haryana

....Respondent..

CORAM:- HON'BLE MR. JUSTICE JASPAL SINGH

Present:- Mr. Vaibhav Jain, Advocate,
for the petitioner.

Mr. D.R. Singla, DAG, Haryana.

Mr. Amit Chaudhary, Advocate,
for the complainant.

JASPAL SINGH, J.

Present petition has been preferred under Section 438 of the Code of Criminal Procedure by Gaurav Sharma, seeking pre-arrest bail, feeling apprehension of his arrest, in case FIR No. 114, dated 11.02.2015 (Annexure P-1), under Sections 498-A, 406 and 506 IPC, at Police Station Camp Palwal, District Palwal.

2. Instant FIR stands registered against petitioner and his father Shiv Dutt Sharma, at the instance of complainant Smt. Jyoti, who has alleged that they raised the demand of an amount of ₹1 lakh and a car and when she showed her inability to meet the said demand, she was subjected to cruelty and harassment and thrown

her out of the matrimonial home. Motorcycle given at the time of marriage was also not returned. She has also alleged that petitioner i.e. her husband has also been pressurizing her to develop physical relation with his father.

3. The contention of learned counsel for petitioner is that petitioner has been falsely implicated in the instant case. In fact, complainant used to leave her matrimonial home without informing him time and again and that too, without any justifiable reason. Due to the said reason, relation between the parties have become strained. Even, parents of complainant are also unnecessarily causing interference in their married life. It has further been submitted that recovery of dowry articles has already been effected, at the instance of father of petitioner. Moreover, motorcycle was purchased by petitioner with his own earning and was not given at the time of marriage. Since, nothing is to be recovered from petitioner, his custodial interrogation is not at all required. However, he is still ready to join the investigation and also undertakes to cooperate with the investigating agency. Thus, it is a fit case to enlarge the petitioner on pre-arrest bail.

4. On the other hand, submission made by learned counsel for the petitioner has been strongly opposed by learned State counsel as well as learned counsel for complainant on the ground that though petitioner has joined the investigation in compliance of order dated April 07, 2015 but motorcycle given at the time of marriage in the shape of dowry is still with the petitioner and is required to be recovered, for which, custodial interrogation of

petitioner is necessary. Not only this, petitioner has pressurized the complainant to develop physical relation with his father as he is not physically fit. They, accordingly, prayed for dismissal of instant petition.

5. This Court has given a deep thought to the aforesaid submissions made by learned counsel for the parties and has scanned the documents available on file.

6. It is an undisputed fact that father of petitioner has already been granted pre-arrest bail and recovery of dowry articles except the alleged motorcycle, has already been effected. Moreover, pre-arrest bail cannot be declined on the ground that dowry articles were still to be recovered. The provisions contained in Sections 406/498-A IPC, have not been enacted to get the alleged dowry articles recovered. In this regard, reference can be made to ***Jagdish Thakkar v. State of Delhi, 1993 Criminal Court Judgments 103, Uday Singh v. State of Haryana, 2001(1) RCR (Criminal) 354 (P&H)*** and ***Bhupinder Singh etc. v. State of Punjab, 2014(2) RCR (Criminal) 109 (P&H)***. Moreover, there is a serious dispute about the motorcycle as to whether motorcycle was given to petitioner at the time of marriage or it was purchased by him and this controversy can only be adjudicated during trial. Allegations with regard to demand of an amount of ₹1 lakh and a car as well as pressurizing the complainant to develop illicit relation with his father, are matter of evidence and at this stage, no opinion can be expressed.

7. Keeping in view the totality of facts and circumstances of the case but without expressing anything on merits, petition is

allowed and order dated April 07, 2015, is made absolute, subject to the conditions, as envisaged under Section 438(2) Cr.P.C.

**(JASPAL SINGH)
JUDGE**

August 03, 2015
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