

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

**CRM-M-13287 of 2015
Date of Decision: 26.5.2015**

Mahesh Kumar

.....Petitioner

Vs.

State of Haryana

.....Respondent

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present : Mr. Johan Kumar, Advocate
for the petitioner.

Mr. Parveen Aggarwal, AAG, Haryana.

RAMESHWAR SINGH MALIK J. (ORAL)

Petitioner seeks pre-arrest bail in FIR No. 135 dated 6.4.2015 under Sections 498-A/406/323/313/420/506 IPC, registered at Police Station Old Faridabad.

Notice of motion was issued and interim protection was granted.

Learned counsel for the petitioner submits that in compliance of the order passed by this Court, petitioner has joined the investigation and cooperated with the investigating agency. He further submits that since it was second marriage of the petitioner with real sister of his earlier wife, who died in road accident, neither

anything was demanded by the family of the petitioner nor any dowry, as a matter of fact, was given by the family members of the complainant. He next contented that when the second marriage did not work, petitioner was forced to apply for divorce. Complainant was duly served but she did not appear before the learned matrimonial court, because of which, an ex parte decree of divorce was granted by the learned court of competent jurisdiction, vide order dated 1.10.2014. Complainant did not move any application for setting aside the ex-parte decree in time, however, such an application has now been moved. In this view of the matter, petitioner is being put to wholly unwarranted harassment by the complainant party. He prays for allowing the present petition.

On the other hand, learned counsel for the State, on instructions from ASI Veersain, submits that although the petitioner has joined the investigation, yet he did not cooperate with the investigating agency and some dowry articles are yet to be recovered. He prays for dismissal of the present petition.

Having heard the learned counsel for the parties, after careful perusal of the record of the case and giving thoughtful consideration to the rival contentions raised, this Court is of the considered opinion that in the given fact situation of the present case, petitioner has been found entitled for the concession of anticipatory bail. It is so said, because despite due service, complainant did not appear in the matrimonial court. Further, despite knowing fully well about the pendency of the divorce petition before the matrimonial court, complainant-wife did not appear and the ex

parte decree of divorce was granted by the learned Additional District and Sessions Judge, Palwal, vide judgment dated 1.10.2014 (Annexure P-5).

In view of the above and without commenting upon the merits of the case, lest it should prejudice the rights of either of the parties, order dated 27.4.2015 passed by this Court is hereby made absolute, however, subject to the conditions under Section 438 (2) Cr.P.C.

Disposed of, accordingly.

(RAMESHWAR SINGH MALIK)
JUDGE

26.5.2015
Ak Sharma