

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

CRM No. M-15479 of 2014

Date of Decision:-8.1.2015

Bishnu Tokas

...Petitioner

Versus

State of Haryana & Anr.

...Respondents

CORAM: HON'BLE MR.JUSTICE MEHINDER SINGH SULLAR

Present: Mr.Gaurav Mohunta, Advocate for the petitioners.

Mr.Pravindra Singh Chauhan, Addl. AG, Haryana
for respondent No.1.

Mr.S.S.Mor, Advocate for respondent No.2.

Mehinder Singh Sullar, J. (Oral)

The contour of the facts & material, which needs a necessary mention for the limited purpose of deciding the instant petition, for the grant of concession of anticipatory bail preferred by the main accused (husband), emanating from the record and as claimed by the prosecution, is that the marriage of complainant Ruby, daughter of Sathir Dhaiya (respondent No.2) (for brevity “the complainant”) was solemnized with petitioner Bishnu Tokas son of Sukender Singh, on 24.2.2012, according to Hindu rites & ceremonies. Her father was stated to have spent a sum of Rs.70 lacs and gave LED TV 44”, Fridge 300 litres, washing machine, gold coins, 4 gold rings, one gold chain, 1 kg. of gold ornaments, besides other customary gifts and other dowry articles at the time of marriage, mentioned therein in the list annexed with the FIR. On 19.2.2012, few days prior to the engagement, petitioner made a demand of large XUV car instead of ordinary car. Father

of complainant was stated to have purchased a Mahindra XUV car in order to keep her daughter happy in her matrimonial home. After solemnization of the marriage, the accused started taunting that her father has not given the dowry articles as per their status, although, he had promised to give rupees two crores in the dowry. The complainant narrated the entire tale of woe to her parents, but all went in vain.

2. Sequely, the case of the prosecution further proceeds that the petitioner and his other co-accused continued to physically and mentally torture her and repeated their pointed illegal demands of dowry. The accused assured her father that they will keep her nicely, but they again tortured her very badly. Their increasing illegal demands were not fulfilled by her father. It was claimed that on 4.12.2012, her father admitted her in one of the largest hospital of Delhi "Holy Angels Hospital, where she gave birth to a male child on 5.12.2012. Her parents-in-law reached the hospital and tried to forcibly take her child away from her. All the expenses of hospital amounting to Rs.46000/- were borne by her father. They also demanded a sum of Rs.20 lacs in cash at the time of birth of her male child as part of dowry. When she reached her matrimonial home, she came to know that the car given by her father has already been sold by the accused. On 20.9.2013, her father along with some relatives again went to her matrimonial home and tried to convince her in-laws, but they remained adamant on their illegal demand of dowry. The behaviour of the petitioner towards her did not change.

3. Leveling a variety of allegations and narrating the sequence of events in detail in the FIR, in all, according to the complainant that although the indicated sufficient dowry articles, gold ornaments, cash and car were

given at the time of marriage, but petitioner-husband and other co-accused taunted, harassed, tortured and treated her with cruelty in connection with and on account of demand of dowry. Even the petitioner has refused to return and misappropriated the dowry articles of the complainant. In the background of these allegations and in the wake of complaint of the complainant, the present case was registered against the petitioner and his other co-accused, vide FIR No.74 dated 9.2.2014 (Annexure P1), on accusation of having committed the offences punishable under Sections 498-A, 406 and 506 IPC by the police of Police Station Kharkohda, District Sonapat.

4. Having exercised his right of bail and remained unsuccessful before Addl. Sessions Judge, now the petitioner has preferred the instant petition for the grant of concession of anticipatory bail in the pointed criminal case in this Court.

5. Notice of the petition was issued to the respondents.

6. After hearing the learned counsel for the parties, going through the record with their valuable help and after deep consideration over the entire matter, to my mind, there is no merit in the instant petition in this context.

7. Ex-facie, the argument of learned counsel that since the petitioner-husband has been falsely implicated by his wife in the present case, so, he is entitled to the concession of pre-arrest bail, lacks merit.

8. As indicated here-in-above, very serious and direct allegations are assigned to the petitioner-husband in the FIR that he has repeatedly taunted, harassed, tortured and threatened the complainant. Not only that, he has misappropriated the dowry articles, but demanded a car, cash & other

dowry articles from her (complainant). He was not satisfied with the dowry articles given at the time of marriage. That means, the petitioner is main accused and alone was the beneficiary of the demand of car, cash and other dowry articles. The complainant was tortured and treated with cruelty in connection with and on account of demand of dowry articles by the petitioner-accused in the manner depicted here-in-above.

9. Meaning thereby, very serious and direct allegations of torture and cruelty in connection with and on account of demand of dowry articles are assigned to the petitioner (husband). The police has yet to interrogate him and to collect the evidence. To me, in case, he is allowed the benefit of anticipatory bail, then, the police would be deprived to recover the dowry articles, gold ornaments, car and cash, depicted therein the FIR, case property and effective investigation. It would naturally adversely affect & weaken the case of the prosecution, which is not legally permissible.

10. Likewise, there is yet another aspect of the matter, which can be viewed entirely from a different angle. During the course of preliminary hearing, the interim bail was granted to enable the petitioner to join the investigation and hand over the entire dowry articles, gold ornaments, car & cash. The learned State counsel, on instructions from the Investigating Officer, has submitted that the petitioner has neither cooperated with the investigation nor handed over the entire gold ornaments, dowry articles, car/cash despite repeated opportunities. Moreover, subsequently, the matter was referred to Mediation Centre of this Court for amicable settlement, as prayed for. But, strange enough, the petitioner has miserably failed to settle the dispute nor resumed cohabitation despite adequate opportunities. In this manner, he is not only playing fraud with his wife, at the same time, he is

also not complying with the aforesaid directions of this Court. Therefore, he is evading his arrest from the date (9.2.2014) of registration of this case against him on one pretext or the other, for the reasons best known to him.

11. Above-all, it is now well settled principle of law that the anticipatory bail should not be granted lightly and in a routine manner. The grant or refusal of such bail depends on the variety of circumstances, the cumulative effect of which, should enter the judicial verdict. The power under Section 438 Cr.PC is to be exercised sparingly and in exceptional cases keeping into focus the facts and circumstances of each case. The Court has also to see that the investigation is in the province of the police and an order of anticipatory bail should not operate as an in-road into the statutory investigational powers of the police, in exercising the judicial discretion in granting the anticipatory bail. At the same time, the Court should not be unmindful of the difficulties likely to be faced and the public interest likely to be affected thereby.

12. Thus, seen from any angle and taking into consideration the specific allegations of cruelty in connection with and on account of demand of dowry assigned to the petitioner-husband, who is the main accused in the case, to my mind, he is not at all entitled to the concession of pre-arrest bail in the obtaining circumstances of the case.

13. In the light of aforesaid reasons and without commenting further anything on merits, lest it may prejudice the case of either side during the course of trial of main case, as there is no merit, therefore, the instant petition for pre-arrest bail filed by petitioner-husband is hereby dismissed as such.

14. Needless to mention that nothing observed, here-in-above,

would reflect, on the merits of the main case, in any manner, as the same has been so recorded for a limited purpose of deciding the present petition for anticipatory bail only.

8.1.2015
AS

(Mehinder Singh Sullar)
Judge