

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

Date of Decision: *April 01, 2015*

1. Criminal Miscellaneous No.M-20560 of 2014 (O & M)

Rohan Khanna (wrongly mentioned as Rohit Khanna in FIR) son of Sudhir Khanna

..... PETITIONER

VERSUS

State of Punjab

..... RESPONDENT

. . .

2. Criminal Miscellaneous No.M-33937 of 2014 (O & M)

Sudhir Khanna & another

..... PETITIONERS

VERSUS

State of Punjab

..... RESPONDENT

. . .

CORAM: **HON'BLE MR. JUSTICE JASPAL SINGH**

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

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PRESENT: - Mr. S.S. Goraya, Advocate, for petitioners.

Mr. Jaspreet Singh Sekhon, Assistant Advocate General, Punjab, assisted by Mr. Dilpreet Singh Gandhi and Mr. Sachin Sharma Advocates, for complainant.

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Jaspal Singh, J

1. This judgment shall dispose of Criminal Miscellaneous No.M-20560 of 2014 and Criminal Miscellaneous No.M-33937 of 2014 as both these petitions are outcome of common FIR and involve similar facts and questions of law.

2. Instant petitions have been preferred by Rohan Khanna (petitioner in Criminal Miscellaneous No.M-20560 of 2014); and Sudhir Khanna & Mrs. Kavita Khanna (petitioners in Criminal Miscellaneous No.M-33937 of 2014) seeking pre-arrest bail under Section 438 Cr.P.C., feeling apprehension of their arrest in case FIR No.87 dated May 27, 2014, under Section 406 IPC and Section 12 of The Protection of Women from Domestic Violence Act, 2005, registered at Police Station, Gate Hakima Division, District Amritsar.

3. Briefly stated, allegations contained in FIR are that marriage of complainant – Neha was solemnized with Mohit Khanna on September 8, 2008 according to Hindu rites at Amritsar. At the time of marriage, sufficient dowry including gold ornaments were given which were handed over to petitioners and their co-accused. After marriage, she was blessed with a daughter on November 8, 2009. She also gave

birth to twins on October 1, 2013. Unfortunately, her husband died in a vehicular accident on October 20, 2013. In order to usurp compensation to be received on account of death of her husband, petitioners and other family members started harassing her. Instead of looking after her, her in-laws levelled false allegations and turned her out of matrimonial home after about 1 ½ month of death of her husband. Time and again, she asked petitioners and other family members to return dowry articles but they did not respond to it. Rather, they alleged that dowry articles would be returned only in case she hands over children to them. Ultimately, instant case was registered and investigation was put into motion.

4. Undeniably, after registration of this case, petitioners Rohan Khanna and Sudhir Khanna were arrested by ASI – Paramjit Singh on May 29, 2014. Their arrest cum intimation memo as well as personal search memo were prepared. Even their disclosure statements were also recorded by ASI – Paramjit Singh, but instead of effecting recovery, Rohan Khanna and Sudhir Khanna were let off on bail immediately after their arrest.

5. ASI – Paramjit Singh as well as SHO/Inspector – Nirmal Singh came present in this Court and unfolded

circumstances under which Rohan Khanna and Sudhir Khanna were arrested and released on bail on same day with direction to surrender/ appear after recovery from illness before Investigating Officer. After obtaining that relief, they did not turn back to Investigating Agency. They, rather, preferred a petition under Section 438 Cr.P.C. seeking their pre-arrest bail, before learned Additional Sessions Judge, Amritsar which was dismissed.

6. It is well settled that when a person has been arrested and released on bail, even by Investigating Officer, another application moved for pre-arrest bail is not legally maintainable. Even, after dismissal of application by learned Additional Sessions Judge, they did not opt to join investigation. They are rather guilty of violation of terms & conditions of bail granted to them by Investigating Officer/SHO. Such persons do not deserve concession envisaged under Section 438 Cr.P.C. which is otherwise required to be given in cases where either allegations in FIR, appear to be false or groundless. In the given circumstances, no such opinion can be expressed at this stage qua Rohan Khanna and Sudhir Khanna, petitioners.

7. As far as Mrs. Kavita Khanna, petitioner No.2 in Criminal Miscellaneous No.M-33937 of 2014 is concerned, she

is mother-in-law of complainant. She has already joined investigation in compliance of order dated October 1, 2014 passed by this Court. Moreover, there are also no specific allegations against her. Her custodial interrogation is not required for the recovery of any article, who is otherwise a senior citizen.

9. In the light of what has been discussed above, Criminal Miscellaneous No.M-20560 of 2014 preferred by Rohan Khanna and Criminal Miscellaneous No.M-33937 of 2014 qua petitioner No.1 – Sudhir Khanna stand dismissed. However, Criminal Miscellaneous No.M-33937 of 2014 qua petitioner No.2 – Mrs. Kavita Khanna, is allowed and order dated October 1, 2014 qua her is made absolute subject to following conditions enshrined under Section 438(2) Cr.P.C.:-

(i) that petitioner No.2 shall make herself available for interrogation by a police officer as and when required;

(ii) that she shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

(iii) that she shall not leave India without the previous permission of the Court;

April 01, 2015
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(Jaspal Singh)
Judge