

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-25099-2014

Date of decision: 07.04.2015

Chuhar Singh

..... Petitioner

Versus

State of Haryana and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE R.P. NAGRATH

PRESENT: Mr. SS Dinarpur, Advocate for the petitioner.

Ms. Dimple Jain, AAG Haryana.

Mr. Vivek Goyal, Advocate for respondent No. 2.

R.P. NAGRATH, J. (ORAL)

This petition under Section 438 Cr.P.C. has been filed by the petitioner seeking anticipatory bail in FIR No. 262 dated 09.07.2014 registered under Sections 323/494/495/498-A/506 of the Indian Penal Code (IPC) at Police Station Sadar, Thanesar, District Kurukshetra.

When this case was listed on 30.07.2014, following order was passed:-

“There are serious allegations of physical and mental torture qua the complainant Poonam. Proceedings under Sections 107 & 151 Cr.P.C., at one stage were also initiated. There are allegations that the petitioner was already married and had even cheated

the complainant who entered into the second marriage with him being perturbed by her first divorce.

Counsel for the petitioner has submitted that the complainant has been living in the house of the petitioner and that she was aware of the first marriage of the petitioner since the year 2005.

Counsel for the complainant Mr. Vivek Goyal, has intervened at this stage, to oppose the application. It appears that the complainant is still ready to resume cohabitation with the petitioner in view of a child born out of the relationship.

Before any judicial order is passed, it is deemed appropriate to give a fair opportunity to both the parties, in the interest of justice to explore the possibility of any amicable settlement.

The petitioner will appear before the Investigating Officer on 16.8.2014 between 10AM to 4PM. In case of petitioner doing so, he shall be released on interim bail to the satisfaction of the arresting officer. Thereafter, the petitioner will appear before the Mediation and Conciliation Centre of Punjab and Haryana High Court on 22.8.2014. The complainant will also appear before the Mediation and Conciliation Centre of Punjab and Haryana High Court on said date. The petitioner will pay a sum of

Rs. 25,000/- to the complainant to enable her to meet the travelling and other misc. expenses.....”

I have heard learned counsel for the petitioner, learned State counsel assisted by learned counsel for complainant-respondent No. 2 and have gone through the paper-book quite carefully.

All the offences except the offences under Sections 498-A and 506 IPC are bailable.

Admittedly, marriage of complainant-respondent No. 2 with the petitioner took place in the year 2002. There were strained relations between the parties throughout and at one stage, a compromise was reached between them at the instance of Panchayat.

It is vehemently contended that on persistent persuasion of the petitioner the complainant-respondent No. 2 agreed to bear a child from him. The child was born in the year 2012. Even subsequent to that, the petitioner kept on harassing her.

Learned petitioner's counsel, however, has relied upon the past conduct of the complainant-respondent No. 2 by referring to a judgment dated 11.01.2013 (Annexure P-6), passed by the Additional Chief Judicial Magistrate, Kurukshetra in a Criminal Complaint No. 144 instituted by complainant-respondent No. 2 on 28.03.2005 under Sections 323/294/ 354/506/341/504/509 IPC titled 'Neelam Vs. Raj Kumar'. That complaint was filed on the allegations that petitioner sent a boy to blackmail her and that trial, resulted in acquittal of Raj Kumar, aforesaid. Learned counsel for the petitioner also referred to the enquiry report Annexure P-3 prepared by the Deputy Superintendent of Police (DSP),

Kurukshetra on the complaint made by respondent No. 2 against the petitioner in the year 2006 and serious observations have been made against the complainant in that report.

Learned counsel for complainant-respondent No. 2, however, submits that appeal against the judgment of acquittal Annexure P-6 is pending in this Court.

Learned counsel for the petitioner also urged that to show his bona fides the petitioner is prepared and undertakes to pay the maintenance for the child @ ₹ 20,000/- per month for the past one year and also would keep on paying the future maintenance @ ₹ 20,000/- per month till the issue of grant of maintenance is decided in appropriate proceedings.

On instructions from ASI Prem Chand, learned State counsel submits that petitioner has joined the investigation on 16.08.2014 and he is no more required for further interrogation.

In view of the above and without expressing any opinion on merits of the case, the instant petition is allowed and the interim bail granted to the petitioner vide order dated 30.07.2014 is made absolute and the petitioner shall abide by the conditions as enshrined in Section 438 (2) Cr.P.C. and as per his own undertaking subject to the petitioner depositing the arrears of maintenance @ ₹ 20,000/- per month for the past one year within a period of one month of receipt of certified copy of this order, by way of demand draft of ₹ 2,40,000/- in the name of complainant-respondent No. 2 and also to keep on paying the amount of ₹ 20,000/- per month either by depositing in the account of respondent

No. 2-complainant or by a demand draft by the 10th of each subsequent month, till the matter with regard to maintenance is adjudicated by a competent Court.

Proceedings under Section 125 Cr.P.C. are statedly pending between the parties and the parties are at liberty to raise contentions for adjustments of the maintenance amount when that matter is finalized.

April 07, 2015
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(R.P. NAGRATH)
JUDGE