

CRM no.M-26435 of 2014 (O&M) 1

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

CRM no.M-26435 of 2014 (O&M)

Date of Decision :23.03.2015

Neel Kamal

....Petitioner

Versus

State of Punjab

...Respondent

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER

Present : Mr. Kanwaljit Singh, Sr. Advocate with
Mr. B.B.S.Randhawa, Advocate for the petitioner

Mr. P.J.S.Hundal, AAG, Punjab

Mr. Bhaskar Sharma, Advocate for complainant

MAHESH GROVER, J.

The petitioners pray for grant of pre-arrest bail in terms of Section 438 Cr.P.C in case FIR no. 7 dated 5.1.2014 registered under Sections 498-A, 377 IPC (offence under Section 406, 354-A IPC is deleted during investigation) at Police Station Rama Mandi, Jalandhar.

Initially all the aforesaid offences were arrayed against the petitioner but finally only provisions of Section 498-A and 377 IPC remained. This would indicate that complainant has somewhat tried to aggravate the offences in view of a serious marital discord with the petitioner.

On 25.8.2014 this Court had granted the interim protection to the petitioner subject to his complying with the provisions of Section 438(2) Cr.P.C. It is not in dispute that the petitioner has since joined the investigation but what is contested by the learned counsel for the complainant is the fact of return of dowry articles coupled with the

seriousness of the allegations.

It is contended by the learned counsel for the petitioner that he has joined the investigation to the satisfaction of the Investigating Officer and there is some material on record after inquiry, to show no demands of dowry. Apart from this it is contended that the matter was referred to the Mediation and Conciliation Committee where efforts could not result in any fruitful settlement.

Learned counsel for the complainant on the other hand vehemently points out to the serious nature of the allegations against the petitioner and contends that the dowry articles have yet to be recovered from the petitioner. Besides it is contended that the marriage lasted barely a month and the petitioner alongwith his family members has not only harassed the complainant but also subjected her to indecent demand on her person.

On due consideration of the matter and noticing the fact that the dispute has essentially arisen out of a marital discord and also noticing the fact that the petitioner after grant of interim protection has participated in the investigation, I deem it appropriate to accept the instant petition as subjecting the petitioner to incarceration may not be worthwhile besides it is likely to lead to further deterioration of the relations between the parties which already are at the lowest ebb considering the nature of allegations of the complainant as set out in the FIR.

It is a cardinal principal of law governing the grant of pre-arrest bail that provisions of Section 482 Cr.P.C i.e inherent jurisdiction of this Court needs to be exercised as well in order to thwart the abusive process.

This is not to say that the complaint is entirely or partially false but the fact

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remains that the dispute essentially stems from a marital discord with the parties given to a tendency of aggravating the allegations against all and sundry and indulging in demeaning behaviour.

Thus considering the facts in totality and circumstances of the case, instant petition is accepted. Interim directions dated 25.8.2014 are hereby made absolute subject to the condition that the petitioner continues to comply with the provisions of Section 438(2) Cr.P.C.

Nothing said herein shall be construed to be an expression on the merits of the case.

March 23, 2015
rekha

(MAHESH GROVER)
JUDGE