

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

CRM No. M-29812 of 2014

Date of Decision:-13.2.2015

Bharat Sharma

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR.JUSTICE MEHINDER SINGH SULLAR

Present: Mr.J.S.Toor, Advocate for the petitioner.

Mr.J.S.Shekhon, AAG Punjab for the respondent-State.

Mr.Sherry K.Singla, Advocate for the complainant.

Mehinder Singh Sullar, J. (Oral)

The epitome 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 filed by the main accused (husband), emanating from the record and as claimed by the prosecution, is that the marriage of complainant Sonika Sharma, daughter of Krishan Kumar (for brevity “the complainant”) was solemnized with petitioner Bharat Sharma son of Sham Lal, on 28.5.2006, according to Hindu rites & ceremonies in village Bainspur. Her parents were stated to have spent more than Rs.10 lacs and gave gold ornaments, weighing 8 tolas, including TV, Fridge, Washing machine, cooler, bed, clothes, utensils and other household articles. At the time of “Shagun” ceremony, which was performed two days prior to the marriage, the petitioner and his other family members had demanded Royal Enfield motorcycle, which was given to them by her parents. Still, the

accused were not satisfied. The complainant claimed that after some days of the marriage, petitioner and his other co-accused started taunting her for bringing less dowry and demanded car, gold set for mother-in-law and gold chain for brother-in-law. She could not fulfill their illegal demand of dowry on account of paucity of funds with her parents. Consequently, her father convened a Biradari panchayat and tried to pacify the accused but in vain. They started harassing her on one pretext or the other. She gave birth to a female child on 6.5.2007, but the accused were not happy. However, they again demanded more valuable dowry articles and gold ornaments at the time of birth of female child. Thereafter, they started beating her and again made a demand of car. Even the petitioner has not provided her the medical aid despite her serious ailment of cancer. She is still under treatment and all the medical expenses are being borne by her father and not by the petitioner.

2. Leveling a variety of allegations and narrating the sequence of events in detail in the FIR, in all, according to the complainant that the petitioner initially demanded the pointed motorcycle, which was given to him. Thereafter, he started demanding a car, gold ornaments, dowry articles, taunted and severely treated her with cruelty in connection with and on account of demand of dowry. 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.94 dated 21.7.2014 (Annexure P1), on accusation of having committed the offences punishable under Sections 498-A & 406 IPC by the police of Police Station Nangal, District Ropar in the manner described here-in-above.

3. Having exercised his right of bail and remained unsuccessful before Sessions Judge, now the petitioner has preferred the instant petition

for the grant of concession of anticipatory bail in the indicated criminal case in this Court.

4. Notice of the petition was issued to the respondent.

5. 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 present petition in this context.

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

7. 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 and tortured the complainant. Not only that, he has misappropriated the dowry articles, but demanded a car & 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 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.

8. 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 & motorcycle, mentioned therein the FIR, case

property and effective investigation. It would naturally adversely affect & weaken the case of the prosecution, which is not legally permissible.

9. 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 amicably settle the matter, join the investigation and hand over the entire dowry articles, gold ornaments and motorcycle. 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, motorcycle, despite repeated opportunities.

10. Not only that, subsequently, the matter was referred to Mediation Centre of this Court for amicable settlement, as prayed for. Indeed, the matter was settled, by means of settlement deed dated 11.11.2014. Instead of complying with the terms & conditions of the settlement, strange enough, the petitioner has stoutly denied to make payment of the agreed amount to the complainant 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 (21.7.2014) of registration of this case against him on one pretext or the other, for the reasons best known to him.

10. Moreover, 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 by the complainant and the public interest likely to be affected thereby.

11. 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.

12. 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.

13. 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.

13.2.2015
AS

(Mehinder Singh Sullar)
Judge