

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

CRM-M-385 of 2013

Date of decision : 10.07.2015

Bikramjit Singh

..... Petitioner

Versus

State of Punjab

... Respondent

CORAM:- HON'BLE MR. JUSTICE DARSHAN SINGH

1. Whether Reporters of the 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?

Present: Mr. R.S. Rai, Senior Advocate with
Mr. A.P.S. Sandhu, Advocate for petitioner.

Mr. Gurveer Sidhu, AAG, Punjab.

Mr. P.S. Ahluwalia, Advocate for complainant.

DARSHAN SINGH, J.

The present petition has been filed by petitioner Bikramjit Singh for grant of anticipatory bail by invoking the provisions of Section 438 of the Code of Criminal Procedure, 1973 in case FIR No.166 dated 17.10.2012, under Sections 406, 420, 498-A/34 of Indian Penal Code, 1860 (here-in-after called the 'IPC'), registered at Police Station Dasuya Distt. Hoshiarpur.

2. Learned counsel for the petitioner contended that the

marriage is more than 12 years old, which was solemnised on 08.01.2003. Two children were born respectively on 11.11.2003 and 18.12.2008. The present case was registered on 17.10.2012. During the investigation, the offences punishable under Sections 406 and 420 IPC were dropped. Now the case is only under Section 498-A IPC. He contended that the allegations against the petitioner regarding cruelty are false. During the pendency of this petition, the efforts were made for settlement. In order to show his *bona fide* for the settlement, the petitioner has got prepared two FDRs in the name of the minor children for a sum of Rs.7,00,000/- each.

3. He further contended that petitioner is a government servant. The complainant has even obtained the *ex parte* divorce. The allegations levelled by the complainant that the petitioner has played the fraud with respect to the *ex parte* divorce decree stands falsified from the documents placed on record that the complainant was planning to migrate to Canada and in those papers, she has shown her status as a divorcee. Even then the petitioner has got registered the marriage.

4. He further contended that the allegations regarding demand and entrustment of dowry articles was duly considered during investigation and were found false. The petitioner has repeatedly joined the investigation and has been thoroughly interrogated. He is a government servant and is posted as an Excise Inspector. So, there is no chance that he will flee away from the trial and will not be available to the investigating agency. Thus, he deserves the concession of anticipatory

bail.

5. On the other hand, learned State counsel assisted by Mr. P.S. Ahluwalia, Advocate for the complainant, contended that the complainant is ready to rehabilitate in the matrimonial house but the petitioner is adamant and has refused to rehabilitate her in the matrimonial house. He contended that the complainant has been treated with cruelty by the petitioner. He developed the extra marital relations with a girl named Deepika. Even a case of kidnapping was registered against the petitioner. He contended that due to that reason he started harassing the complainant. He further contended that the **petitioner** was interested to migrate abroad as his parents were living in United States of America. In order to complete the formalities, he fraudulently procured the signatures of the complainant to obtain the *ex parte* decree of divorce. He contended that even thereafter, the complainant had been residing in the matrimonial house and even gave birth to the second child. If she would have been interested in divorce, she would not have stayed in the matrimonial house thereafter. He contended that the conduct of the accused also plays a vital role to claim the extra ordinary privilege of the anticipatory bail. In the instant case, in view of the allegations against the petitioner and his conduct, he does not deserve the concession of the anticipatory bail.

6. The aforesaid contentions have been duly considered.

7. The Hon'ble Supreme Court in case **Jai Prakash Singh Vs. State of Bihar and another 2012(2) RCR (Criminal) 251** has laid

down that neither the anticipatory bail nor the regular bail can be granted as a matter of rule. The anticipatory bail being an extra ordinary privilege should be granted only in exceptional cases. Thus, in order to seek the concession of anticipatory bail, the petitioner is required to make out the exceptional case. I also find substance in the plea raised by learned State counsel that the conduct of the accused is also relevant to determine his entitlement to claim the extraordinary privilege of the anticipatory bail.

8. In the instant case, petitioner is the husband of Jaspreet Kaur, the daughter of complainant Dr. Anup Singh Gill. There are specific allegations in the FIR against the present petitioner for harassment and torture of Jaspreet Kaur. She was harassed and tortured for giving birth to a female child. The harassment of Jaspreet Kaur further increased with birth of the second female child. It is mentioned in the FIR that the accused were adamant to the fact that Jaspreet Kaur should have aborted the second female child and they were insisting that she should have got herself checked from the doctor with respect to the determination of the gender of the child and when she gave birth to the second daughter, she was harassed and humiliated.

9. It is also categorically mentioned in the FIR that Jaspreet Kaur was pressurised in the end of year 2005 for giving the papers for divorce as it would only be a formality. As the petitioner wanted to migrate to United States of America as his parents were citizens of U.S.A. and visa could only be obtained on the basis of said divorce papers. Learned counsel for the complainant has vehemently pleaded that if

Jaspreet Kaur would have intended to shift to Canada, the papers received from the Canada Embassy produced by the petitioner would have been in her possession but these documents are coming on record from the custody of the petitioner. It shows that he was pursuing the matter with respect to immigration. It has been specifically mentioned in the FIR that the said *ex parte* decree of divorce was a result of fraud played by the petitioner. It is not disputed that even after the said decree of divorce, Jaspreet Kaur has been residing in the matrimonial home and even gave birth to a female child.

10. It is further categorically mentioned in the FIR that the petitioner on 05.03.2012, eloped with a girl named Deepika and the case FIR No.20/2012 under Section 366 IPC, P.S. Islamabad was registered against the present petitioner. A photocopy of the said FIR has been placed on record by the learned counsel for the complainant. Having the extraordinary marital relation and eloping with a girl is itself an act to cruelty.

11. The proceedings in the present petition also depicts the conduct of the petitioner. In order to secure the benefit of interim bail, the inclination for compromise was shown. The petitioner was directed to prepare two FDRs for Rs.7,00,000/- each, in the name of both the minor daughters and to arrange a house at Hoshiarpur vide order dated 13.02.2013. The matter was adjourned to 04.04.2013 to comply with the aforesaid terms and conditions. Thereafter, the matter was adjourned to seven times. On 29.05.2014, learned Senior counsel for the petitioner has

produced a communication dated 28.05.2014 from I.N.G. Vyasa Bank that the F.D.Rs. in the names of the daughters have already been drawn but thereafter, no settlement has been reached between the parties. On 20.05.2015, the present petitioner and Jaspreet Kaur were present before the Court. The petitioner has stated that the rehabilitation of Jaspreet Kaur is not possible in the matrimonial home due to prevailing circumstances as they are living separate since 2012. It shows that petitioner is not interested to rehabilitate Jaspreet Kaur in the matrimonial home.

12. Thus, keeping in view the specific allegations of cruelty against the petitioner and his conduct, he has failed to make out an exceptional case for grant of extraordinary privilege of anticipatory bail.

13. Thus, the present application has not merits and the same is hereby dismissed.

10.07.2015

sunil yadav

**(DARSHAN SINGH)
JUDGE**