

CRM-M-42471-2014 (O&M)

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

**CRM-M-42471-2014 (O&M).
Decided on: December 14, 2015.**

Sahil Kumar

..... Petitioner(s)

Versus

State of Punjab and another

..... Respondent(s)

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CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

**PRESENT Mr.R.S.Cheema, Sr. Advocate, with
Mr.Jasreet Singh, Advocate,
for the petitioner.**

Ms.Harpreet Kaur Athwal, DAG., Punjab.

**Mr.Raman Goklaney, Advocate,
for respondent No.2.**

M.M.S. BEDI, J.

Apprehending arrest in a case registered at the instance of respondent No.2 Rajni, the petitioner has filed the present petition for pre-arrest bail.

As per the allegations in the FIR, the complainant was tortured and mentally harassed by the petitioner and his family members on account of having brought insufficient dowry. There are allegations of demand of Rs.25 to 30 lacs for buying a flat in Mumbai. She was allegedly thrown out of the matrimonial home. The petitioner and the complainant were blessed with a child out of wedlock. The petitioner has claimed that he has been falsely implicated.

CRM-M-42471-2014 (O&M)

It is not out of place to observe here that an attempt was made to get the matrimonial dispute amicably resolved by referring the matter to the Mediation and Conciliation Centre of Punjab and Haryana High Court but on account of the petitioner having already filed a divorce petition, the matter could not be amicably reconciled. An attempt was also made by this Court to persuade the parties to reunite or part company on any terms settled between the parties.

Without expression of any opinion on the reasons for efforts of reconciliation having been failed, I have taken up the matter on merits.

Mr.R.S.Cheema, learned senior Advocate, appearing on behalf of the petitioner has vehemently contended that the allegations in the FIR are absolutely general and vague. There is no specific demand made by the petitioner. The amount which was paid to the petitioner by way of cheque was deposited in his account but subsequently the amount was transferred in the account of complainant. It was claimed by the counsel for the petitioner that criminal proceedings are nothing but an abuse of process of the Court being a counterblast to the divorce petition filed by the petitioner.

The petition for pre-arrest bail has been opposed by the counsel for the complainant on the ground that recovery of gold articles including bangles, set and ring etc. is yet to be effected. The

CRM-M-42471-2014 (O&M)

said plea of the complainant had been vehemently opposed by the learned counsel for the petitioner.

Counsel for the petitioner has submitted that though the jewellery has already been taken by the complainant yet the costs of 50 tolas of gold jewellery can be deposited in the Court subject to final decision of the trial.

Counsel for the complainant has intervened to oppose the application for pre-arrest bail contending that the petitioner had initially taken her to Mumbai but subsequently she was sent back to Jalalabad and has been compelled to stay away from the petitioner and his family members. It has also been argued that the mother-in-law in similar circumstances has been granted the concession of pre-arrest bail.

I have heard learned counsel for the petitioner. No doubt the petitioner has filed a divorce petition for dissolution of marriage on the allegations that the complainant is of quarrelsome nature and has subjected the petitioner to mental cruelty on different occasions. He has levelled allegations that she is habitual of using filthy language and that she has threatened the petitioner to commit suicide. Mere filing of a divorce petition by levelling similar allegations is not sufficient enough to arrive at a presumption that the criminal case filed by the wife is a counterblast to the application for pre-arrest bail. The fact that a lady who is not staying in the matrimonial home along with her minor child raises a legal presumption that the conduct of her in laws is unreasonable compelling her to stay away

CRM-M-42471-2014 (O&M)

from the matrimonial home and no female along with minor child will opt voluntarily to leave the house of her husband.

I do not find any force in the contentions of learned counsel for the petitioner that the complainant has voluntarily left the company of the petitioner. The grant of bail to the mother of the petitioner does not ipso facto entitle the petitioner for the similar relief, he being the main accused having compelled his wife by his conduct to leave the matrimonial home, is a circumstance to deny the concession of pre-arrest bail to the petitioner as recoveries are yet to be effected.

No extra ordinary exceptional circumstances exist to grant the concession of pre-arrest bail to the petitioner.

The petition is dismissed.

December 14, 2015.
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(M.M.S. BEDI)
JUDGE