

CRM-M-42528-2014 (O&M)

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

**CRM-M-42528-2014 (O&M).
Decided on: February 10, 2015.**

Ajaib Masih

..... Petitioner(s)

Versus

State of Punjab and another

..... Respondent(s)

*** * ***

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

**PRESENT Mr.Vipin Mahajan, Advocate,
for the petitioner.**

Mr.C.S.Brar, DAG., Punjab.

**Mr.B.S.Singh, Advocate,
for the complainant.**

M.M.S. BEDI, J (ORAL)

Petitioner seeks concession of pre-arrest bail in a case registered at the instance of Balwinder Kaur alleging that the complainant was married to the petitioner on 16.9.2013. There are allegations that the petitioner had been frequently threatened and forced to do immoral acts. She was allegedly beaten and thrown out of the house while she was on family way. The complainant along with minor child is stated to be staying away from the matrimonial home.

Counsel for the petitioner has vehemently contended that the petitioner is ready to resume cohabitation. He has offered to maintain and stay with the complainant but on account of previous conduct of the petitioner, the complainant has been reluctant to join his company.

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Counsel for the petitioner further submits that an application under Section 32 of the Indian Divorce Act, for restitution of conjugal rights is pending before the Matrimonial Court at Gurdaspur.

After considering the facts and circumstances of the case, I am of the considered opinion that when a wife along with minor child has been turned out of the matrimonial home, an adverse presumption is required to be drawn regarding the culpability of the husband. There are also allegations of continued threats and killing. There is also allegation in the FIR that the complainant was forcibly made to sit along with males who use to visit the house for extraneous reasons. The object of the provisions of Section 498-A IPC would be defeated in case in such cases of extreme cruelty, the husbands are granted the concession of pre-arrest bail.

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

This petition is dismissed without prejudice to the rights of the petitioner to seek concession of regular bail or to approach this court again in case the matter is compromised between the parties.

Nothing said in this order will prejudice the rights of the petitioner in regular bail application.

February 10, 2015.
rka

(M.M.S. BEDI)
JUDGE