

In the High Court of Punjab and Haryana, at Chandigarh

Criminal Misc. No. M-6234 of 2015

Date of Decision: 21.4.2015

Sunil Kumar Chugh and Another

... Petitioner(s)

Versus

State of Haryana

... Respondent(s)

CORAM: Hon'ble Mr. Justice Darshan Singh.

Present: Mr. A.S.Gulati, Advocate
for the petitioner(s).

Mr. Rajiv Doon, AAG Haryana
for the respondent.

Mr. Puneet Kakkar, Advocate
for the complainant.

Darshan Singh, J.

1. The present petition has been filed by petitioners, namely Sunil Kumar Chugh and Tamanna, under Section 438 of Code of Criminal Procedure, 1973 (hereinafter referred to as "Cr.P.C.") for grant of anticipatory bail in case FIR No. 807 dated 21.11.2014, registered under Sections 494, 497, 498, 379 & 506 of the Indian Penal Code, 1860 (hereinafter referred to as "IPC").

2. As per the prosecution allegations, complainant Navinder Munjal was married with petitioner No.2-Tamanna about three years back. After six months of the marriage, she left the matrimonial home without any intimation and also carried away ten tolas of jewellery and ₹ 50,000/- in cash. She had also solemnized her second marriage with petitioner No.1-Sunil without getting any divorce from the

complainant. She has also given birth to a male child in the month of April, 2014.

3. Learned counsel for the petitioner pleaded that the present case is only a counter-blast as petitioner No.2 has already got registered a case under Section 498-A IPC against the complainant and has also filed a petition under the Domestic Violence Act, 2005 (hereinafter referred to as "the Act"). He contended that all the offences except Sections 379 & 506 IPC are bailable. The petitioners have already joined the investigation. There is no evidence to establish the evidence of theft.

4. On the other hand, learned State counsel, assisted by Mr.Puneet Kakkar, Advocate, counsel for the complainant contends that though the petitioners have joined the investigation, yet the recovery of the jewellery and Rs.50,000/- is to be effected. Learned counsel for the complainant contended that the complainant has already been acquitted in the criminal case, lodged by petitioner No.2-Tamanna under Section 498-A IPC and her petition under the Act has also been dismissed.

5. I have duly considered the aforesaid contentions.

6. This fact is not disputed that all the offences except Sections 379 & 506 IPC are bailable. Learned State counsel, on the instructions from Assistant Sub Inspector Joginder Singh, Police Station City, Hansi submits that both the petitioners have already joined the investigation and have been sufficiently interrogated. As per the prosecution allegations, petitioner No.2 had left the matrimonial home only after six

months of her marriage with the complainant and the present case has been got registered after more than 2½ years of her leaving the house. The allegations regarding taking away of ten tolas of golden ornaments and ₹ 50,000/- by petitioner No.2 while leaving the matrimonial home are quiet debatable. It is not disputed that petitioner No.2 was the legally wedded wife of the complainant when she left the matrimonial home. It is a matter of evidence as to where the said ornaments and the money belong to petitioner No.2 or to the complainant and his family and this disputed question of fact cannot be adjudicated upon at this stage. In these circumstances, there is no requirement of any custodial interrogation of the petitioners.

7. In view of above, the present petition is hereby allowed and the order dated 25.2.2015 granting interim pre-arrest bail to the petitioners is hereby made absolute. The petitioners shall, however join the investigation as and when called for and they will also abide by the conditions as specified under Section 438 (2) Cr.P.C.

(Darshan Singh)
Judge

April 21, 2015

“DK”