

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 206

Criminal Miscellaneous No.M-7607 of 2015 (O & M)

Date of Decision: *March 26, 2015*

Mohan Singh

..... PETITIONER

VERSUS

State of Punjab

..... RESPONDENT

. . .

CORAM: **HON'BLE MR. JUSTICE JASPAL SINGH**

. . .

1. Whether Reporters of 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?

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PRESENT: - Mr. Digvijay Nagpal, Advocate, for the petitioner.

Mr. Jaspreet Singh Sekhon, Assistant Advocate General, Punjab, Assisted by Mr. Hitesh Pandit, Advocate, for complainant.

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Jaspal Singh, J

1. This petition has been preferred by Mohan Singh under Section 438 Cr.P.C. for grant of pre-arrest bail in case FIR No.134 dated December 26, 2014 under Sections 406,

498-A, 120-B IPC registered at Police Station Women, Ludhiana.

2. Instant case has been registered on the basis of complaint lodged by Sonia daughter of Harpal Singh unfolding that her marriage was solemnized with Mohan Singh – petitioner on May 29, 2012 but at the time of marriage, factum of his previous marriage was concealed by her husband Mohan Singh. Sufficient dowry was also given at the time of marriage but despite that neither petitioner nor his family members were satisfied with the same. Complainant was allegedly subjected to cruelty and further, istri dhan/ dowry articles were misappropriated by hatching a criminal conspiracy.

3. Contention of learned counsel for petitioner is that petitioner has been falsely implicated in the instant case. Marriage between parties was quite simple and nothing was given by complainant or her father to petitioner. Co-accused of petitioner has already been granted concession of pre-arrest bail by learned Additional Sessions Judge, Ludhiana. However, application for pre-arrest bail moved by petitioner was dismissed on the ground that 13 tolas of gold jewelry is still required to be recovered which is only possible by custodial interrogation.

4. It has further been contended by learned counsel for petitioner that complainant is habitual of lodging false criminal complaints against petitioner and his family members. Previously, she moved a complaint dated November 15, 2013 to Commissioner of Police, Ludhiana which was subsequently withdrawn by her on June 25, 2014. Thereafter, she filed instant complaint leveling false allegations.

5. Relying upon judgment in Bhupinder Singh & others vs. State of Punjab, 2014(2) RCR (Criminal) 109, it has been contended that pre-arrest bail could not be rejected on the ground that dowry articles were not recovered from accused when offence falling within purview of Section 498-A, 406 IPC are complained of.

6. It has further been contended that petitioner is ready and willing to join investigation and to abide by terms & conditions imposed by this Court in case he is granted concession of pre-arrest bail.

7. On the other hand, learned State counsel has supported the order passed by learned Additional Sessions Judge, Ludhiana, whereby pre-arrest bail sought by petitioner was declined.

8. This Court has given an anxious thought to rival submissions made by learned counsel for parties and perused the record.

9. Undisputedly, marriage of petitioner was solemnized with complainant – Sonia on May 29, 2012. Subsequently, it revealed that petitioner – Mohan Singh was already married and that fact was concealed by him from complainant as well as her family members. Thereafter, demand of dowry was also raised and on that account, she was treated with cruelty. Mere fact that co-accused of petitioner has already been granted concession of pre-arrest bail by learned Additional Sessions Judge, does not *ipso facto* mean that petitioner who is husband of complainant, is also entitled to it.

10. In the case in hand, recovery of gold jewelry stated to be entrusted to petitioner still requires to be recovered which is only possible through custodial interrogation. Judgment relied upon by learned counsel for petitioner in Bhupinder Singh's case (supra) is not applicable as a strait-jacket formula and each case has to be dealt with according to facts and circumstances of that particular case. In the case in hand, custodial interrogation is required. As such, this Court

does not find any merit in this petition and same is accordingly
dismissed.

March 26, 2015
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(Jaspal Singh)
Judge