

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Judgment delivered on : December 22, 2015

+ BAIL APPLN. 387/2015

SANDEEP KUMAR

..... Petitioner

Through: Mr.Ramesh Kumar, Advocate.

versus

STATE THR. NCT OF DELHI

..... Respondent

Through: Mr. Vinod Diwakar, Additional
Public Prosecutor for the State with
ASI Dharambir Singh, Police Station
Uttam Nagar, New Delhi.

CORAM:

HON'BLE MR. JUSTICE P.S.TEJI

JUDGMENT

P.S.TEJI, J.

1. Aggrieved by the order dated 05.02.2015 passed by learned Additional Sessions Judge – 04, West, Tis Hazari Courts, Delhi, the petitioner has preferred the present petition under Section 438 of Code of Criminal Procedure, 1973 (hereinafter referred to as Cr. P.C.), seeking anticipatory bail in case registered as FIR No. 823/2014 under Sections 498A/406/34 of IPC, Police Station Uttam Nagar, New Delhi.

2. The present case is registered at the instance of the complainant – Poonam Mehra, wherein she has levelled allegation of dowry demand against the petitioner and his family members. The

complainant married the petitioner on 30.11.2012 according to Sikh Rites and ceremonies and one daughter – Baby Ekam was born out of this wedlock on 16.01.2014. Prior to the instant case, one complaint was filed at Police Station Naya Gaon Mohali against the petitioner and his parents but the same was compromised on 05.10.2013. As per the terms of the compromise dated 05.10.2013, the complainant had taken all her golden ornaments and valuable clothes and other articles. On 14.03.2014, the complainant left the company of petitioner with the infant child and thereafter the petitioner filed a case under Section 9 of Hindu Marriage Act, 1956 before the Hon'ble Court at Chandigarh in which the complainant appeared and she also filed a Crl. Writ Petition No.727/2014 seeking custody of the minor daughter. However, the said writ petition was dismissed as withdrawn on 12.05.2014. The complainant again filed a complaint in CAW Cell, Kirti Nagar, New Delhi against the petitioner and his entire family members and during investigation, complainant again entered into compromise with the petitioner and went with the petitioner to the matrimonial home on 21.05.2014. The Investigating Officer in CAW Cell directed the petitioner alongwith complainant to appear

before the Investigating Officer on 16.06.2014 for knowing that both are living together peacefully. When the petitioner reached there, he saw that the mother of complainant was there and she started quarrelling with the petitioner and ordered the complainant not to go back again with the petitioner.

3. After registration of the present FIR, the petitioner filed an application under Section 438 of Cr. P.C. for anticipatory bail in which the petitioner was granted interim protection and matter was referred to mediation cell on 03.11.2014 by the learned Additional Sessions Judge, Tis Hazari, which continued till 05.02.2015.

4. Mr. Ramesh Kumar, Counsel for the petitioner submits that during the period of interim protection the petitioner alongwith his family member also joined the investigation as and when called by the Investigating Officer of this case and the petitioner is also appearing in the case filed by the complainant under Section 12 of the D.V. Act, 2005. It is further contended that the petitioner is regularly appearing before the concerned Court and also paying maintenance of Rs.3,000/- per month for the minor child. Counsel for the petitioner further contended that the petitioner shall co-operate in the

investigation of this case and undertakes to abide by all the terms and conditions as imposed by the Court.

5. Mr. Vinod Diwakar, Additional Public Prosecutor appeared on behalf of the State and vehemently opposed the present application and submitted that the *istridhan* articles are yet to be recovered from the petitioner and for that purpose, custodial interrogation of the petitioner is required.

6. I have heard the submissions made by counsel for the petitioner and the learned Additional Public Prosecutor for the State.

7. When the present bail application came up for hearing before this Court on 26.02.2015, both the parties agreed to settle their matrimonial dispute through Delhi High Court Mediation and Conciliation Centre and they were directed to appear before the said Forum on 07.03.2015 at 11.00 a.m. and thereafter, as and when called and the matter was adjourned to 06.07.2015. In that order, it was directed that subject to petitioner participating and cooperating in the mediation proceedings, he shall not be arrested in this case. On 06.07.2015, counsel for the petitioner submitted that the petitioner is ready to live with the complainant – wife in a rented accommodation,

which was not acceptable to the complainant. Counsel for the petitioner sought time to obtain instruction as to whether petitioner is ready to keep the complainant in her matrimonial house in an exclusive portion to allay the apprehension of family members of the parties and accordingly the matter was adjourned to 14.08.2015 extending the benefit of interim protection. On 14.08.2015, Counsel for the petitioner undertook that petitioner would be appearing before the Investigating Officer of this case on 18.08.2015 at 4 p.m. and thereafter, as and when called and the matter was adjourned to 17.12.2015 and subject to petitioner joining and cooperating with investigation of this case, the interim protection was extended till 17.12.2015.

8. A mediation report dated 23.04.2015 is also on record, stating that the matter was discussed at length but despite best efforts, no settlement could be arrived at between the parties.

9. After hearing the aforesaid submissions made by learned counsel for the petitioner and having gone through the impugned order and the material placed on record, this Court observes that the petitioner has joined the investigation and is also appearing in another

case filed by the complainant before the Mahila Court, Tis Hazari, Delhi, and the petitioner has undertaken to cooperate in the investigation of this case and is ready to return the istridhan articles to the Investigating Officer.

10. In view of the aforesaid facts and circumstances, this Court is of inclined to extend the benefit of interim protection to the petitioner. Accordingly, the interim order dated 26.02.2015 passed in favour of the petitioner is made absolute. Accordingly, it is hereby ordered that in the event of arrest, petitioner – Sandeep Kumar be released on bail subject to furnishing of his personal bond in the sum of Rs.25,000/- with two sureties of the like amount to the satisfaction of the arresting officer.

11. It goes without saying that anything observed in this petition shall not have any bearing on the merit of the case during trial.

12. With aforesaid directions, both the bail application stand disposed of.

13. Dasti.

(P.S.TEJI)
JUDGE

DECEMBER 22, 2015
pkb