

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Crl. Misc. No. M-11396 of 2015

Date of decision : 02.02.2016

Arnav Mukherjee

... Petitioner

versus

U.T. Chandigarh

... Respondent

CORAM:- HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Gaurav Chopra, Advocate
for the petitioner

Mr. Gautam Kaile, Advocate for
Mr. Rajiv Sharma, Advocate
for U.T. Chandigarh

Complainant in person with
Mr. Ravi Kamal, Advocate

ANITA CHAUDHRY, J.(ORAL)

The petitioner is seeking anticipatory bail in FIR No. 91 dated 27.02.2015 registered at Police Station East Sector 26, Chandigarh under Sections 406/498-A IPC.

Vide order dated 09.04.2015, the petitioner was directed to join the investigation. He had joined the investigation. He was again asked to join as it was stated that he was not cooperating.

Since the State counsel had submitted that petitioner was not cooperating, therefore, time was fixed in the Court.

The Coordinate Bench directed the petitioner to be present before the Investigating Officer on 07.11.2015 at 10.00 a.m. Liberty was granted to

the Investigating Officer to detain the petitioner till 8.00 p.m. for the purpose of investigation. On the following date, it had stated that the petitioner had not cooperated and he did not comply with the order in letter and spirit and appear before the Investigating Officer around 4.00 p.m. though he was in the police station till 8.00 p.m.

Learned counsel for the petitioner contends that the complainant and the petitioner had studied together in Cardiff University, United Kingdom and they had moved to India and were in live in relationship and finally they got married in February 2011. He further contends that the couple lived in a rented accommodation in C.R. Park, New Delhi and thereafter moved to South Park Apartment in Kalkaji where they lived together till middle of July 2014. He further states that the petitioner left the rented accommodation on 16.07.2014 and he had got the DDR (Annexure P-3) lodged on the same day. The counsel contends that the complaint under the Domestic Violence Act was filed in 2014 and liability of payment of 50% of the rent was placed upon him. The counsel refers to Annexure P-8 and to the order Annexure P-9. It was urged that the respondent was not residing in the house and she had shifted to Chandigarh and a lawyer was appointed as Local Commissioner to find the status. He refers to Annexure P-10. He further contends that the complainant has a locker which she was operating on her own and all the articles are with her and the petitioner had joined the investigation. The counsel also states that the petitioner could not appear before the Investigating Officer at 10.00 a.m. in November 2015 as he had got the information late and he travelled from Delhi to Chandigarh. He also states that the petitioner was ready to settle but the amount demanded by other side was too huge and he was unable to pay but they were ready for final settlement.

Learned counsel appearing for the complainant and State have

opposed the bail application. It is stated that the petitioner had not cooperated and had not handed over the dowry articles. A reference has been made to the list placed on the record. It is stated that the couple were staying in the in-laws house and all the articles were left in that house and no recovery has been effected.

Learned counsel for the complainant states that when the petitioner had come to join investigation he had given a threat and a complaint was given by the complainant to the Officer Incharge of the Woman Cell at 6.30 p.m. Copy of the same has been placed on record. A copy of the DDR entered on 07.11.2015 has also been made available by the State counsel.

The petitioner has joined the investigation earlier. He was again directed to join the investigation. The petitioner admits that he went to the police station late. He has given reason for the same. He was in police station for almost 4 hours. The main ground raised by the complainant and the State is that recovery of the articles has not been effected. The moot question is whether the articles that were handed over to the bride or the relatives of the groom which are traditional present at the time of wedding would be dowry so as to attract the provisions and what was actually given? The parties met when they were students in U.K. They were in a live in relationship and got married in 2011. The dispute arose in 2015. There were no other complaints of demand of dowry. So far as recovery is concerned, the Investigating Officer can even otherwise get the recovery effected and custodial interrogation is not necessary.

The petition is allowed and interim order dated 09.04.2015 is made absolute subject to the condition that the petitioner will join the investigation as and when required by the police and will not tamper with evidence or hamper the investigation and will not leave India without

permission of the Court and will comply with the conditions contained in
Section 438(2) Cr.P.C.

February 02, 2016
reena

(ANITA CHAUDHRY)
JUDGE