

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CRM M-20410 of 2015

Date of Decision: February 1, 2016

Amar Singh

.....Petitioner

Vs.

State of Punjab

.....Respondent

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

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Present:- Mr.C.M. Munjal, Advocate
for the petitioner.

Ms. H.K. Athwal, DAG, Punjab.

Mr. N.S. Sodhi, Advocate for the complainant.

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M.M.S. BEDI, J.

This petition has been filed by Amar Singh-petitioner under Section 438 Cr.P.C., for grant of anticipatory bail in case FIR No. 36 dated May 8, 2015, under Sections 418, 420, 177 and 120-B IPC registered at Police Station Sadar Abohar, District Fazilka.

The said FIR was got registered at the instance of Leela Devi alleging that the petitioner is her husband and after marriage she was turned out of the matrimonial home along with her son. She was compelled to file

suit for maintenance by seeking creation of charge on 61 Kanal, 9 Marlas land belonging to the petitioner. An order was passed in favour of the complainant on December 14, 2010 creating a charge on the property for payment of maintenance to the complainant at the rate of Rs.3,000/- per month besides Rs.2500/- for the son of the complainant till he attained majority.

The allegations against the petitioner is that he in connivance with his brother, got three sale deeds executed in favour of his brother despite a charge having been created on the property and an injunction order passed in favour of the complainant.

Learned counsel for the petitioner has vehemently contended that all the arrears of maintenance calculated w.e.f. 2014 have been cleared after registration of the FIR and that petitioner is ready to give an undertaking in the Court that he would continue to pay the amount of maintenance to the extent of Rs.3,000/- per month as the son has already attained majority. However, it is admitted that the property has actually been transferred to his brother Sarvan Kumar. Two sale deeds out of the three were executed prior to the date of decree i.e. December 14, 2010 whereas another sale deed was executed after the said date.

Learned counsel for the complainant has opposed the application for pre-arrest bail. The petitioner is alleged to have played fraud with the complainant by disobeying the order of the Court creating a charge on the property.

Learned counsel for the complainant has submitted that a sum of Rs.24,000/- is again due after the last payment having been made in December, 2015.

I have heard learned counsel for the parties and carefully gone through the facts and circumstances of this case. The conduct of an accused towards the process of law, is always a factor for determining his eligibility to claim the benefit of discretionary relief of pre-arrest bail. Petitioner has throughout been making an attempt to over-reach the process of law. He has not only defeated the rights of the complainant as a wife but has made an attempt to ensure that she is not able to get her legal right of maintenance by seeking charge on his property. He has made all out efforts to defeat an order dated December 14, 2010 creating a charge on the property for payment of maintenance at the rate of Rs.3000/- per month to the complainant besides a sum of Rs.2500/- per month to the son of the complainant, till he attains majority by connivance with his brother and executing three sale deeds in his favour. The legal technicalities are not required to be seen at this stage. No extraordinary exceptional circumstances exist to grant the concession of pre-arrest bail to the petitioner.

The petition is dismissed. Nothing said in this order will prejudice the rights of the petitioner to seek concession of regular bail.

February 1, 2016
sanjay

(M.M.S.BEDI)
JUDGE