

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-33810-2015

Date of Decision:-03.06.2016.

SAMEER KHAN

.....Appellant

Versus

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Present:- Mr.R.S. Mamli, Advocate for the petitioner.

Mr.Ashish Yadav, Addl.A.G. Haryana.

Mr.Vikramjeet Singh, Advocate for
Mr.Aman Pal, Advocate for the complainant.

HARI PAL VERMA, J. (ORAL)

This is second bail application filed under Section 438 Cr.P.C. seeking grant of anticipatory bail to the petitioner in case FIR No.142 dated 07.07.2015 for offence punishable under Sections 498-A, 323, 406, 494, 313, 511, 506 and 120-B IPC, registered at Police Station Chhappar, District-Yamuna Nagar.

The aforesaid FIR was registered at the behest of complainant, namely, Sanjida alias Nena(wife of the present petitioner). As per FIR, the parties are *Muslim* by caste and their marriage was solemnized on

29.12.2013 at Maharaja Palace, Mustafabad, District-Yamunnagar. However, after performing marriage, the accused persons including the present petitioner started harassing the complainant and demanded dowry. The complainant was tortured mentally and physically and she was given beatings.

Learned counsel for the petitioner *inter-alia* contends that the allegation against the petitioner is that he has performed a second marriage with Khatija on 7.6.2015 during the subsistence of his earlier marriage with Sanjida. However, a bare perusal of the FIR shows that no case is made out against the petitioner and his whole family members have been falsely involved in the case. The brother-in-law/Jija of the complainant is a senior officer i.e. Superintendent of Police and remained posted at Ambala, Panchkula and other various places whereas her sister is a Sub Inspector in the Police and due to their influence, the entire family has been robbed in the case. He further submits that at the time of marriage, petitioner never demanded any dowry. The complainant is in the habit of making such like complaint and even the sister of the complainant has filed a complaint against her husband, who is a doctor at Sirsa. He also submits that the entire dowry articles which were required to be recovered, have already been recovered.

On other hand, learned counsel for the State, on instructions from SI-Ramesh Kumar, submits that despite there being repeated opportunities given to the petitioner, he is not cooperating with the investigation and has not facilitated the recovery of all the dowry articles.

He further submits that there are serious allegations against the petitioner which includes beatings and attempt to commit abortion of the complainant, for which offence under Section 313 IPC finds mention in the FIR. Moreover, out of this wedlock, a daughter was born to her who is staying with the complainant only.

I have heard learned counsel for the parties.

The earlier petition for grant of anticipatory bail bearing CRM-M- 26851 of 2015 was dismissed as withdrawn with liberty to the petitioner to approach the Sessions Court. Since learned Sessions Judge has declined the anticipatory bail, the petitioner has filed the present petition.

This Court, vide order dated 07.10.2015, while issuing notice of motion in the case, has granted interim bail to the petitioner and directed him to join investigation as and when directed by the Investigating Agency. However, when petitioner did not cooperate with the investigating officer on 15.12.2015 and 16.05.2016, he was again directed to join investigation and to cooperate with the investigating agency.

Moreover, vide order 20.05.2016, this Court considering the nature of the case being a matrimonial dispute, referred the matter to the Mediation & Conciliation Centre of this Court and the parties were directed to appear before the Mediator on 25.05.2016. But it has been reported by the Mediation Mediation & Conciliation Centre of this Court that despite best efforts, the parties could not arrive at any amicable settlement.

A bare perusal of the FIR also shows that the petitioner being husband is the main accused in the case and there are serious allegation against him. Some of the dowry articles are yet to be recovered from him. This Court cannot ignore the fact that marriage between the parties took place on 29.12.2013 and the petitioner has performed a second marriage with Khatija on 7.6.2015 during the subsistence of his earlier marriage leaving the complainant and her minor daughter in great difficulty. Furthermore, despite granting repeated opportunities to the petitioner, he has failed to cooperate with the investigation and the dowry articles have not been recovered from him. In order to effect recovery of dowry articles, police has summoned the petitioner. Thus, recovery is yet to be effected from the petitioner.

In view of the above facts and circumstances of the case, no case is made out for grant of anticipatory bail to the petitioner.

Dismissed.

June 03, 2016
Anjal

(HARI PAL VERMA)
JUDGE