

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

Criminal Misc. No.M- 19610 of 2017(O&M)

Date of Decision: December 20 , 2017.

Sandeep PETITIONER (s)

Versus

State of Haryana RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Narender Kaajla, Advocate
for the petitioner.

Mr. Sanjay K.Saini, AAG, Haryana.

Mr. Ajay Jain, Advocate
for the complainant.

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?

LISA GILL, J.

Prayer in this petition is for grant of anticipatory bail to the petitioner in FIR No.318 dated 02.04.2017 under Sections 323/406/498A/506/34 IPC, registered at Police Station Hisar Civil Lines.

It is submitted that the complainant in this case remained in the matrimonial home for a brief period. Even as per the allegations in the FIR, she had left the matrimonial home in April 2013. Marriage between the petitioner and the complainant was solemnized on 06.02.2013. The complainant had been

living at her parental home since then. The petitioner, it is submitted, filed a petition under Section 13 of the Hindu Marriage Act, 1955 seeking divorce on 07.03.2014. It is thereafter that the present FIR was registered on 02.04.2017. Therefore, it is argued that the aforementioned FIR is primarily a counter-blast to the filing of the divorce petition by the petitioner. Learned counsel for the petitioner submits that the said divorce petition has been dismissed on 03.11.2017 and an appeal shall be preferred by the petitioner in the said matter. It is vehemently urged that no demand of dowry was ever raised. The allegations in the FIR are not substantiated. The complainant, it is submitted, had involved all other family members including the parents-in-law and the brother-in-law (Jija) of the petitioner. All other accused except the petitioner were found innocent by the police during investigation. It is further submitted that the petitioner has joined investigation and he undertakes to face the proceedings and not misuse the concession of anticipatory bail, if afforded to him. It is submitted that a sum of ₹30,000/- as litigation expenses has been handed over to the complainant in compliance with order dated 30.05.2017. Therefore, it is prayed that this petition be allowed.

Learned counsel for the complainant has opposed this petition. It is submitted that the FDRs attached as Annexure P5 with this petition do not form part of the total amount spent on marriage. Moreover, the complainant had not lodged the FIR in question at an earlier stage as she sought resumption of matrimonial ties with the petitioner. Even as on date, she seeks resumption of matrimonial ties and does not want to part ways with the petitioner in any manner. It is further submitted that a list of dowry articles has been handed over

to the police authorities on 17.12.2017 and gold articles are yet to be recovered from the petitioner. It is therefore prayed that this petition be dismissed.

Learned counsel for the State, on instructions from SI Raj Rani, verifies that the petitioner has joined investigation, though it is submitted that recovery of the gold articles is yet to be effected.

I have heard learned counsel for the parties at length.

During the course of hearing, it was urged that as per the allegations in the FIR, a sum of ₹10,00,000/- is alleged to have been spent on the marriage. Out of the said amount, ₹5,00,000/- were in the form of two FDRs in favour of the complainant (Annexure P5 collectively). The said FDRs are dated 02.02.2013 and 05.02.2013. Marriage was solemnized on 06.02.2013. The FDRs are with the complainant. The petitioner offered to handover ₹5,00,000/-. Thereafter, he offered to handover the entire amount of ₹10,00,000/-. It is noticed that mediation between the parties has failed as the complainant seeks resumption of matrimonial ties and no other kind of settlement whereas, the petitioner is not ready to resume matrimonial ties with the complainant.

There are no allegations on behalf of the State that the petitioner is likely to abscond or that he is likely to dissuade the witnesses from deposing true facts before the Court, if released on bail.

It has been held in **Prit Pal Singh versus State of Punjab and another 2014 (5) RCR (Criminal) 771** to say that non recovery of certain articles cannot be a ground for not affording the concession of anticipatory bail to the petitioner.

Keeping in view the facts and circumstances as above but without commenting upon or expressing any opinion on the merits of the case, this petition is allowed. Consequently, order dated 30.05.2017 is made absolute.

It is clarified that none of the observations made hereinabove shall be construed to be a reflection on the merits of the case. The same are solely confined for the purpose of decision of the present petition.

December 20 , 2017.
'om/rts'

**(LISA GILL)
JUDGE**

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No