

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

CRM-M-44566-2014

Date of decision: 04.10.2017

Guneshwar Jha

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Himanshu Puri, Advocate,
for the petitioner.

Ms. Gaganpreet Kaur, AAG, Haryana.

Mr. Sarfraj Hussain, Advocate,
for the complainant.

Petitioner and the complainant in person.

JAISHREE THAKUR, J.

This is a petition that has been filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in case FIR No. 784 dated 09.12.2014 under Sections 498-A/323/325/506/34 IPC registered at Police Station Sector 10, District Gurgaon.

In brief, the petitioner filed the instant petition for grant of anticipatory bail alleging that he had been falsely implicated in the instant matter. It was contended that a marriage was solemnized between the petitioner and the complainant 12 years back i.e. on 23.05.2005 and thereafter they lived together happily. Out of this wedlock one child was born. It is contended that the allegations of harassment and dowry is nothing but an abuse of the process of law.

Per contra, the respondent complainant alleged that she had been harassed for demand of dowry by both her in-laws and her husband. It was further contended that her parents had given sufficient money on several occasions to save her matrimonial home but despite the said amounts having been given, she had been subjected to ill-treatment. In fact, on account of violence she was subjected to, she suffered a nose injury and relied upon an MLR which shows two injuries and nasal bone fracture. After investigation, an FIR under Sections 498-A/323/325/506/34 IPC came to be registered against her husband Guneshwar Jha and Meera Devi, her sister-in-law. The Addl. Sessions Judge, Gurgaon declined to give bail to the petitioner husband resulting in the instant petition.

The matter was entertained by an order dated 02.01.2015 when notice of motion was issued for 07.01.2015 on which date the arrest of the petitioner was stayed till the next date of hearing. During the pendency of the petition, the complainant-wife in order to save her matrimonial home agreed to accompany the husband on his assurance that he would keep her properly. The matter was taken up again on 06.08.2015, when it was submitted before this Court that though they were residing together the petitioner was maltreating her and had not deposited the fees of the child. A submission was made on behalf of the petitioner herein that he would deposit the fees of the minor child and will deposit Rs. 8,000/- in the account of of his wife towards her personal expenses. The matter was even referred for mediation, however, the same did not fructify. The petitioner herein started harassing the complainant by not paying rent which resulted in a notice of eviction issued to her by the landlord. It was also submitted

that the petitioner was maintaining a separate house and not residing with the wife. This fact was controverted which resulted in the Court directing the petitioner husband to pay an amount of Rs. 8,000/- per month towards her personal expenses, to deposit the fees of the minor child, plus rent of the house and also to remain with the complainant-wife.

The petitioner had been directed to make payment of Rs. 8,000/- per month towards her personal expenses which has not been paid in its entirety nor was the school fees of the minor child deposited regularly, which resulted in the complainant taking the minor child out of the school and leaving for her parental home to Kolkata. It is also contended that the complainant wife had no option but to withdraw her child from the school on account of non-deposit of the fees on a regular basis and, moreover, the petitioner was not residing with the complainant.

I have heard learned counsel for the parties and have perused the record of the case along with the medicolegal report.

At the very outset, on the date when this matter came up for hearing, the petitioner had assured that he would keep his wife properly and it was on his assurance that the complainant-wife had agreed to accompany him. Each time the matter was taken up by this Court, the complainant-wife had complained of maltreatment at the hands of the petitioner and also stressed that there is non-compliance of the orders passed by this Court that he would pay the rent regularly along with the school fees of the minor child as well a sum of Rs. 8,000/- per month for her personal expenses. The complainant-wife has been subjected to physical abuse as would be evident from the MLR which is on the record. The petitioner continued to harass her

which would be evident from the fact that the school fees of the child was deposited late and even the amount of Rs. 8,000/- as her personal expenses were not regularly deposited. In such a situation when a categorical assurance had been given by the petitioner that he would maintain his wife properly and reside with her (which he is not doing), he would not be entitled to any discretionary relief.

The Addl. Sessions Judge, Gurugram in his order dated 22.01.2014 had prima facie taken into account pleas on the record by the complainant about the money transferred by her father-in-law in the account of the petitioner – her husband while also noting that she has suffered fracture of the nasal bone. There is no infirmity in the order so passed. The grant of anticipatory bail is the discretion of the Court. This Court showed leniency to the petitioner in the hope that marriage between the parties could be saved but it appears that the conduct of the petitioner does not show any such improvement.

In view of the above, the petition is dismissed and the interim protection granted to the petitioner is hereby withdrawn. While dismissing the petition, any opinion expressed herein is not to be considered as an opinion on the merits of the case.

04.10.2017*Satyawan***(JAISHREE THAKUR)
JUDGE***Whether speaking/reasoned
Whether reportable**Yes
No*