

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

CRM-M-12304-2018

Date of decision:-17.9.2018

Jaswinder Kaur and others

...Petitioners

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Ashok Singla, Advocate
for the petitioners.

Mr.Dhruv Dayal, Sr.DAG, Punjab.

Mr.Karan Garg, Advocate
for the complainant.

H.S. MADAAN, J.

The instant petition under Section 438 Cr.P.C. for pre-arrest bail has been filed by petitioners Jaswinder Kaur, Jagroop Singh and Amrik Singh, all of them being accused in FIR No.08 dated 20.2.2018, under Sections 498-A, 406, 420, 34 IPC, registered at Police Station Women Cell, Bathinda.

Briefly stated, the facts of the case as per the prosecution

story, are that criminal machinery was set into motion by complainant – Harshdeep Kaur daughter of Harjinder Singh, resident of Gashpura, Tehsil Phul, District Bathinda seeking taking of legal action against her husband – Nandeep Singh, father-in-law Jagroop Singh, mother-in-law Jaswinder Kaur, brother-in-law Amrik Singh and sister-in-law Kiranjeet Kaur for demanding dowry and ill-treatment and torture of complainant at their hands besides committing criminal breach of trust with respect to her *istridhan* articles. On the basis of the complaint, formal FIR was registered.

Apprehending their arrest in this case, petitioners-accused had approached the Court of Sessions seeking grant of pre-arrest bail but their such application was dismissed by the Court learned Additional Sessions Judge, Bathinda vide order dated 6.3.2018. As such, they have approached this Court asking for similar relief.

I have heard learned counsel for the parties besides going through the record.

A perusal of the FIR goes to show that earlier the complainant had lodged FIR No.7 dated 21.3.2014 under Sections 498-A, 406 IPC against her husband and members and his family. During pendency of the trial, the matter had been compromised and and the complainant was rehabilitated in the matrimonial home. The FIR in question has been lodged thereafter when the case registered vide FIR No.7 of 2014 under Sections 498-A and 406 was compromised, that means the allegations levelled for maltreatment in connection with demand of dowry and criminal breach of trust did not survive. On return

of the complainant to the matrimonial home, it has to be taken that she came in possession of all her *istridhan* articles. Since the instant FIR has been registered on 20.2.2018 almost after four years, it does not appeal to reason that the complainant was not given custody of her dowry articles or that she was deprived of their use when she returned to the matrimonial home after settlement in the first case. The first FIR had been quashed on the basis of statement made by the complainant though according to her, her signatures had been obtained by force but that does not seem to be plausible and convincing. After return of the complainant to the matrimonial home, there are no allegations of any further items being given to her by parents and relatives being entrusted to the accused and accused having committed criminal breach of trust with respect to such articles/items. The allegations of harassment and maltreatment in connection with demand of dowry are general lacking specific particulars. The husband of complainant, namely, Nandeep Singh after being arrested in this case has since been granted regular bail by the trial Court vide order dated 9.3.2018. The present petitioners have since joined the investigation. Although learned State counsel has submitted that recovery of gold jewellery articles worth Rs.7 lakhs is to be effected but then due to lack of allegations with regard to specific entrustment of articles to the present petitioners, it could not be said that they are in possession of such gold articles and recovery is to be got effected from them. The petitioners cannot be denied concession of pre-arrest bail solely for the reason that recovery of gold jewellery articles remains to be effected. As has been noticed by the Apex Court that in case of matrimonial dispute, there is a

tendency to throw a net wide so as to rope in as many persons as possible of the family of husband. The custodial interrogation of the petitioners is not found to be essential, therefore, the petition has merit. The interim bail granted to the petitioners vide order dated 23.3.2018 is made absolute, subject to the following conditions:

- 1) that they shall make themselves available for interrogation by a police officer as and when required;
- 2) that they shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or to any police officer;
- 3) that they shall not leave India without the previous permission of the Court; and
- 4) that they shall surrender their passports before the Investigating Officer if they have got ones otherwise to furnish affidavits in that regard.

The petition is allowed accordingly.

17.9.2018
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(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No