

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

CRM-M-15338-2018

Date of decision:-3.10.2018

Avikar Sharma

...Petitioner

Versus

State of Punjab

...Respondent

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

Present: Mr.Vishal Munjal, Advocate
for the petitioner.

Mr.Rakeshinder Singh Sidhu, AAG, Punjab.

Mr.Inderjit Singh, 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 petitioner Avikar Sharma, an accused in FIR No.50
dated 17.3.2018, under Sections 498-A, 406 IPC, registered with Police
Station Dinanagar, District Gurdaspur.

Briefly stated, the facts of the case, as per the prosecution story are that the FIR in question was registered on the basis of written complaint submitted by complainant Pallavi Sharma daughter of Sh.Lalit Mohan Sharma, resident of village Bhatoya Nehar Wala Dak Ghar. In such written complaint addressed to SSP, Gurdaspur, the complainant sought taking of action against her husband Avikar Sharma, father-in-law Vinod Sharma, mother-in-law Ramesh Kumari, brother-in-law (JETH) Avilash and sister-in-law (JETHANI) Anita, inter alia, contending that her marriage was solemnized with Avikar Sharma on 9.12.2012 and at the time of marriage, her parents had spent a lot of money by giving considerable dowry articles including costly items and jewellery articles, however, after some time of the marriage, she was harassed and maltreated by her husband and his family members in connection with demand of dowry in the form of Swift car along with Rs.10 lakhs in cash; that she had tolerated the harassment and maltreatment with a view that things would improve with the passage of time but to no effect; that her harassment, which included beatings and torture continued; that when the complainant gave birth to a female child, that also added to her troubles. According to the complainant, her husband is teaching in Vaishno College and has been treating her with cruelty at the instance of his family members; that the complainant had reported the matter to the police earlier but due to intervention of SHO P.S. Dina Nagar, the dispute was resolved but there was no change in behaviour of her husband and in-laws, who returned to the old ways; that being fed up with such treatment, the complainant informed her parents; that she along with her husband

separated in residence but things did not improve. According to the complainant, her husband is having illicit relations with his brother's wife Anita; that the complainant had attempted to commit suicide also but saved by her parents. On basis of such written complaint, formal FIR was registered.

Apprehending his arrest in this case, petitioner accused had approached the Court of Sessions seeking grant of pre-arrest bail but his such application was dismissed by the Court learned Additional Sessions Judge, Gurdaspur vide order dated 2.4.2018. As such, he has approached this Court asking for the similar relief.

Notice of the petition was issued to the respondent – State, which put in appearance through State counsel. The complainant has also appeared through counsel.

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

In this case the marriage between the complainant and present petitioner took place on 9.12.2012. They were blessed with a daughter on 19.9.2013. Unfortunately, they had developed a matrimonial discord and the husband filed a petition for divorce against his wife on 2.6.2017 and FIR was lodged on 17.3.2018 i.e. more than five years after the marriage. Earlier the wife – complainant had submitted a written complaint to the police, however, the matter is said to have been compromised. According to the petitioner, the complainant had taken away all her dowry articles and list of items purported to be signed by complainant on 24.5.2014 has been placed on record, which shows gold

ornaments also. Copy of the seizure memo showing taking into possession motorcycle Mark Bullet, gold jewellery articles has been placed on record by the complainant. The petitioner has joined the investigation. According to the complainant herself, she had tried to commit suicide. Though learned State counsel has submitted that three gold articles are yet to be recovered from the complainant but in view of copy of the seizure memo placed on file by the petitioner and copy of list of items signed by the complainant, which include gold ornaments, this contention does not come out to be convincing. Even otherwise, as is the settled law that the pre-arrest bail cannot be denied simply for the reason that complete recovery has not been effected.

Keeping in view the facts and circumstances of the case and the fact that the petitioner has since joined the investigation, his custodial interrogation is not found to be necessary, therefore, the petition has merit. The interim bail granted to the petitioner vide order dated 25.7.2018 is made absolute, subject to the following conditions:

- 1) that he shall make himself available for interrogation by the police officer as and when required;
- 2) that he 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 him from disclosing such facts to the Court or to any police officer;
- 3) that he shall not leave India without the previous permission of the Court; and
- 4) that he surrender his passport before the Investigating Officer if he has got one otherwise to

furnish affidavit in that regard.

The petition is allowed accordingly.

3.10.2018
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No