

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

**Crl. Misc. No. M-16753 of 2017
Date of Decision : March 08, 2018**

Gagan Jhamb.....Petitioner

Versus

State of Haryana and anotherRespondents

CORAM : HON'BLE MRS. JUSTICE LISA GILL

...

Present: Mr. Rakesh Dhiman, Advocate
for the petitioner.

Mr. Ashok S. Chaudhary, Addl. A.G. Haryana.

Mr. Manish Soni, Advocate
for respondent No.2.

...

LISA GILL, J. (Oral)

The petitioners seek the concession of anticipatory bail in FIR No. 287 dated 30.12.2016 under Sections 498-A, 343, 406, 506, 34 IPC registered at Women Police Station, Sector 51, Gurugram.

It is submitted that the present FIR has been registered due to temperamental differences between the petitioner and respondent No.2. Marriage between the petitioner and the complainant/respondent No.2 was solemnized on 19.05.2015. As per allegations in the FIR sufficient dowry was given and a sum of Rs.15 lakhs was spent at the time of marriage. Allegations of ill-treatment and harassment at the hands of the petitioner and other family members are raised in the FIR. It is stated that demand of a diesel car and Rs.05 lakhs was raised. The complainant was ultimately alleged to have been thrown out of the matrimonial home on 04.07.2015 just

two months of the marriage after being physically abused. It is alleged that the complainant again went back to the matrimonial home but was ultimately turned out on 07.08.2015 again. Efforts were made to reconcile the matter. Delay tactics were used by the petitioner and his family due to which no action was taken by the complainant. Petition under Section 9 of the Hindu Marriage Act, 1955 was filed by the petitioner and thereafter the present FIR was registered.

Learned counsel for the petitioner argues that even as on date the petitioner seeks resumption of matrimonial ties but the complainant is not ready for the same. It is argued that the complainant herself left the matrimonial home on 07.08.2015. Efforts were made to resolve the dispute and for resumption of matrimonial ties but the complainant did not return to the matrimonial home. Ultimately, the petitioner filed a petition under Section 9 of the Hindu Marriage Act, 1955 in December 2015. The complainant appeared in the said proceedings and it is thereafter that the present FIR was registered only with a view to pressurize the petitioner and his family members. It is further argued that an attempt has been made to involve all the family members of the petitioner. All allegations of ill treatment and harassment in the FIR it is stated are incorrect. In order to show his *bona fides* the petitioner is ready and willing to deposit a sum of Rs.02 lakhs qua the jewellery which is alleged to be still lying with the petitioner though it is denied that any items are still lying with him without prejudice to his rights. The petitioner undertakes to face the proceedings and not abuse the concession of bail if afforded to him. It is, thus, prayed that this petition be allowed.

Learned counsel for the complainant while opposing this

petition submits that the complainant wished for an amicable resolution of the dispute, therefore no action was taken from 07.08.2015 till the lodging of the FIR on 30.12.2016. However, it would not be possible to resume matrimonial ties at this stage due to the unhealthy and unsafe environment created by the petitioner. It is submitted that specific allegations have been raised against the petitioner. It is however not denied that a petition under Section 9 of the Hindu Marriage Act, 1955 has been filed by the petitioner prior to the lodging of the present FIR.

Learned counsel for the State, on instructions from ASI Vijay Singh, verifies that the petitioner is not involved in any other criminal case. It is however submitted that recovery of gold articles is yet to be effected.

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

There is no allegation that the petitioner is likely to abscond or that he is likely to dissuade the witnesses from deposing true facts in the Court, if released on bail.

Keeping in view the facts and circumstances of the case but without expressing any opinion on the merits of the case, it is considered just and expedient to allow this petition.

Consequently, in the event of arrest of the petitioner, he be released on bail to the satisfaction of the Arresting/investigating Officer as well as subject to deposit of Rs.02 lakhs before the learned trial Court within four weeks from today. Needless to say the said deposit shall be without prejudice to the rights of the petitioner. The petitioner shall join

investigation as and when called upon to do so. Petitioner shall comply with the conditions stipulated in Section 438 (2) Cr.P.C.

08.03.2018
rupi

(LISA GILL)
JUDGE

Note: Whether speaking/reasoned
Whether Reportable:

Yes / No
Yes / No