

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

Criminal Misc. No.M- 17417 of 2017(O&M)

Date of Decision: April 3 , 2018.

Ashwani PETITIONER (s)

Versus

State of Haryana RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. S.K.Garg Narwana, Senior Advocate with
Mr. Kshitij Bharati, Advocate
for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

Mr. Adarsh 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.54 dated 07.04.2017 under Sections 323/377/498A/506 IPC (Section 406 IPC added subsequently) registered at Police Station Women Jhajjar.

As per allegations in the FIR, marriage between the petitioner and the complainant was solemnized on 31.03.2016. It is stated that this was the second marriage of both the parties. Allegations of ill-treatment by the

petitioner, mother-in-law and brother-in-law of the complainant are raised. Accusations attracting the provisions of Section 377 IPC are raised against the petitioner. It is stated that on 23.03.2017, the complainant was subjected to physical abuse. The complainant called the police at Delhi. The police came and made them understand however after the police left, the petitioner and her in-laws again abused her physically. It is further stated that the petitioner forcibly took the complainant's credit card and incurred a bill of over ₹2,00,000/-. The complainant was ultimately left at her parental home on 24.03.2017. Her medical was conducted at Karnal on 25.03.2017 at 2.30 p.m. Present FIR was registered at Police Station Jhajjar.

Learned counsel for the petitioner vehemently argues that marriage, in question, was solemnized in a simple manner being second marriage of both the parties. Allegations against the petitioner are not substantiated by the evidence on record. There is no evidence on record to show that the police was called on 23.03.2017 by the complainant. It is contended that the complainant left her job as Software Engineer out of her own accord in June, 2016 in order to settle abroad. The petitioner however was not in a position to go abroad. Learned counsel points out that the complainant applied for a passport in January 2017 and displayed her marital status as 'single'. No obscene films as alleged were ever prepared by the petitioner. It is further contended that medical of the complainant was conducted at Karnal for extraneous reasons because a cousin-sister of the complainant is posted as an Assistant Sub Inspector at Karnal. One of the maternal uncle (Mama) of the complainant is a retired IPS officer. The petitioner has thus been falsely implicated in this case. In order to show his

bonafides, the petitioner it is submitted is ready and willing to deposit a sum of ₹2,00,000/- which is stated to have been used from the credit card of the complainant, without prejudice to his rights. It is 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. Therefore, it is prayed that this petition be allowed.

Learned counsel for the complainant has vehemently opposed this petition while submitting that there are specific allegations against the petitioner and allegations attracting the rigours of Section 377 IPC have also been raised against him. Reference is made to the medico-legal report dated 25.03.2017 to submit that specific injuries were present. However, it is not denied that the said medical was conducted at Karnal. The complainant's parents live at Bahadurgarh. Learned counsel for the complainant and the State are unable to point out anything on record to indicate the presence of police at the matrimonial home of the complainant on 23.03.2017.

It is submitted by learned counsel for the complainant that the credit card dues now amount to about ₹2,60,000/-. It is further contended that none of the jewellery items have been returned by the petitioner, though it is not denied that there is no averment of entrustment of jewellery to any of the accused in the FIR.

Learned counsel for the petitioner submits that the petitioner is ready and willing to clear all the dues in respect to the credit card as alleged without prejudice to his rights.

Learned counsel for the State, on instructions from ASI Satyawan,

verifies that the petitioner has joined investigation and recovery of ₹50,000/- has been effected. It is further verified that the petitioner is not involved in any other criminal case. 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.

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 17.05.2017 is made absolute, subject to the petitioner depositing a sum of ₹2,60,000/- with the learned Chief Judicial Magistrate, Jhajjar within a period of two weeks from today without prejudice to his rights. The same be released to the complainant.

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.

April 3 , 2018.
'om'

(LISA GILL)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No