

Criminal Misc. No. M- 30741 of 2017 (O&M)

Date of decision : February 15, 2018

Gautam Dhiman

.....Petitioner

Versus

Union Territory, Chandigarh and another

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILLPresent: Mr. Rajinder Singla, Advocate
for the petitioner.

Mr. J.S. Toor, APP for UT, Chandigarh.

LISA GILL, J.

Prayer in this petition is for grant of anticipatory bail to the petitioner in FIR No. 69 dated 19.06.2017 under Sections 406/498A IPC registered at Police Station Sector 17, Chandigarh.

It is submitted that the FIR in question has been registered due to temperamental differences between the parties. Articles belonging to the complainant have been handed back to her. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in this case. The averments in the FIR are not substantiated in any manner. It is stated that in respect to the alleged physical abuse by the petitioner on 03.09.2016, there is no truth in the same as it is on 03.09.2016 itself that the complainant had left the company of the petitioner at the Airport at New Delhi and had accompanied her brother. The examination at a private hospital after two days, where history of a slap by the petitioner is recorded, would be the subject of evidence/trial. Furthermore, illicit relations alleged in the FIR are denied though it is submitted that the petitioner was impleaded as a

respondent in a petition under Section 13 of the Hindu Marriage Act ('the Act' – for short) filed by the husband of Ritu Rani. The said divorce petition, however, was filed much prior to the marriage of the petitioner with the complainant in December, 2015. Learned counsel further submits that the petitioner had duly offered rehabilitation of the complainant in the matrimonial home during mediation proceedings before the Mediation and Conciliation Centre of this Court. A petition under Section 9 of the Act was also filed by him on 18.03.2017 prior to the registration of the FIR in question. However, the complainant is not ready and willing to join his company. The petitioner has joined investigation. He undertakes to face the proceedings and not misuse the concession of anticipatory bail, if confirmed. It is, thus, prayed that this petition be allowed.

Respondent No. 2 is present in Court and has expressed her reservations in joining the matrimonial home due to the unsavoury and unsafe atmosphere created by the petitioner.

Learned counsel for the State, on instructions from SI Ram Kumar, verifies that the petitioner has joined investigation. Recovery of certain articles have been effected though it is stated that some of the gold jewellery is yet to be recorded. It has been held by this Court in **Prit Pal Singh versus 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 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 in the Court, if released on bail.

Keeping in view the facts and circumstances noted above but without expressing any opinion on the merits of case, it is considered just and expedient to allow this petition. In the event of his arrest, petitioner shall be released on bail to the satisfaction of Investigating Officer/ Arresting officer. He shall appear before the Investigating agency as and when required. Petitioner shall comply with the conditions stipulated in Section 438(2) Cr.P.C.

It is reiterated that none of the observations made herein above are a reflection on the merits of the case and shall have no bearing on the trial.

February 15, 2018
rts

(Lisa Gill)
Judge

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