

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

Criminal Misc. No.M- 44482 of 2014(O&M)

Date of Decision: April 25 , 2018.

Pritam Kumar

..... PETITIONER (s)

Versus

State of Haryana

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Keshav Pratap Singh, Advocate
for the petitioner.

Mr. Anmol Malik, AAG, Haryana.

Mr. Rakesh Nehra, 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.603 dated 31.07.2014, under Sections 498A/406/323/506/34 IPC, registered at Police Station Sector 5, Gurgaon, District Gurgaon.

It is submitted that the present FIR has been registered due to temperamental differences between the petitioner and the complainant and as a counter-blast to a divorce petition filed by the petitioner on 01.02.2014.

Marriage between the petitioner and the complainant was solemnized on

26.04.2004. Two children were born out of this marriage, one of them unfortunately passed away on 15.08.2008 due to electrocution. It is thereafter that the complainant left the matrimonial home on 30.08.2008. It is contended that efforts were made to compromise the matter. The complainant returned to the matrimonial home in April 2011 for a few days, but immediately thereafter left the matrimonial home. It is vehemently argued that the allegations of ill-treatment and harassment meted out to the complainant are not substantiated in any manner. There is nothing to show that any complaint whatsoever was ever lodged since their marriage in the year 2004 till the year 2011.

The petitioner, it is submitted, in order to show his bonafides, had expressed a desire for rehabilitation and resumption of matrimonial ties, but the same was not acceptable to the complainant as it was alleged that the petitioner had remarried and even has a child out of this subsequent alliance. The said allegation is vehemently denied.

Learned counsel for the petitioner, on instructions from his client who is present in Court, submits that the petitioner is ready and willing to deposit a sum of ₹7,00,000/- by way of an FDR in favour of the minor child without prejudice to his rights. However, the said FDR be not encashed till the child attains majority. The petitioner further undertakes to bear the educational expenses of the minor child which at this point of time are stated to be about ₹5,000/- per month. It is further submitted that the petitioner has joined investigation and undertakes not to 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 opposed this petition.

However, he is unable to deny that there is no formal complaint on record since marriage of the petitioner and the complainant in the year 2004 till the lodging of the abovesaid FIR No.603 on 31.07.2014. A Panchayat had been convened in April 2011, pursuant to which the complainant had resided in the matrimonial home for a few days. It is contended that there are specific allegations against the petitioner. Therefore, this petition be dismissed.

Heard learned counsel for the parties at length.

The factum of marriage between the parties in 2004, their living separately since 2008, a Panchayat in 2011, the parties living together for a few days and parting again as well as no formal complaint till lodging of the present FIR, is not in dispute.

The complainant, duly identified by her counsel, is present in Court today. It is expressed that she does not wish to resume matrimonial ties with the petitioner because of the subsequent alliance of the petitioner with another lady. The said averments are vehemently denied by learned counsel for the petitioner while submitting that there is no such evidence on record. The complainant on specific query submits that she does not even wish to part ways with the petitioner and is not ready for any kind of settlement with the petitioner.

Learned counsel for the State, on instructions from ASI Sanjay Kumar, verifies that the petitioner has joined investigation and is not involved in any other criminal case. It is informed that final report under Section 173 Cr.P.C. has been presented in this 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, it is considered just and expedient to allow this petition. Consequently, order dated 29.12.2014 is made absolute, subject to the petitioner depositing a sum of ₹7,00,000/- before the learned trial court/concerned Chief Judicial Magistrate, by way of an FDR in favour of the minor child with the mother as guardian before the learned trial court within a period of four weeks from the date of receipt of certified copy of the order without prejudice to his rights. The petitioner as per his undertaking shall further regularly deposit a sum of ₹5,000/- per month directly in the account of the minor child, the details of which shall be handed over to learned counsel for the petitioner during the course of the day.

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 25 , 2018.
'om'

(LISA GILL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No