

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

Crl. Misc. M-45606 of 2016 (O&M)
Date of Decision: September 27, 2018

Gaurav

...Petitioner

Versus

State of Haryana

...Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. K.S. Khehar, Advocate
for the petitioner.

Mr. P.P. Chahar, DAG Haryana.

Mr. S.S. Gill, Advocate with
Mr. Rajiv Kataria, Advocate
for the complainant.

JAISHREE THAKUR, J. (Oral)

1. The instant petition has been filed under Section 438 of Cr.P.C., for grant of anticipatory bail to the petitioner in FIR No.427 dated 24.11.2016 under Sections 498-A, 406, 377 (wrongly mentioned as 376 IPC in the order) 354, 504, 506 of the Indian Penal Code, registered at Police Station Civil Line, Kaithal.

2. The aforesaid FIR came to be registered on the basis of a complaint made by complainant Ashta d/o Jai Narain. As per the allegations in the FIR, a marriage was solemnized of the complainant with the petitioner herein on 05.11.2015 as per Hindu rites and ceremonies. The

petitioner and his family members were not happy with the dowry brought by the complainant and they used to taunt her for bringing inadequate dowry. It is also mentioned that the petitioner and his family members started harassing and torturing the complainant to bring money for Mahendra XUV car and for the expenditure incurred in the marriage. The complainant has also made allegations of the petitioner being liquor addict and in the influence of liquor, forcibly subjected the complainant to unnatural sex. It is also alleged that the petitioner and his family members also started making allegations that she is not medically fit. Thereafter, a Panchayat was also convened, but the things remained the same. It is also alleged that the petitioner herein withheld her tablets, which she would take for her epilepsy.

3. The anticipatory bail application of the petitioner was dismissed by the Additional Sessions Judge, Kaithal, while taking note of the fact that in her statement, which was recorded under Section 164 Cr.P.C., the complainant reiterated all the allegations levelled by her and threw light upon the abnormal psychology of her husband.

4. Learned counsel appearing on behalf of the petitioner herein contends that the allegations as set out in the FIR are patently false, especially the offence that has been allegedly committed under Section 307 of the Indian Penal Code since, the father of the complainant has made a statement in the court that the complainant would like to rejoin the company of her husband. It is contended that only on account of recoveries of dowry articles, bail ought not to have been denied to him. Reliance has been placed upon judgment rendered in **Anil Rajput and others vs. State of**

Haryana, 2010(6) RCR (Criminal) 1126.

5. Per contra, learned counsel for the complainant as well as respondent-State oppose the grant of anticipatory bail to the petitioner on the ground that the petitioner herein had subjected the complainant to cruelty, as alleged in the FIR and had also attempted to commit her murder by withholding her medicine, which were essential to her health. The complainant suffered a seizure of epileptic fit, which was duly recorded by the petitioner on his mobile phone and shown to the Panchayat.

6. I have heard learned counsel for the parties.

7. A contention has been raised that a video was taken of the complainant during the time, she was having epilepsy attack. This video was to establish the non-disclosure of the disease, when the marriage was solemnized between the parties. This video was shown to the Panchayat and recovery of the same is essential to establish the allegations of Section 307 of Indian Penal Code.

8. This court by an order dated 09.07.2018 had directed the petitioner herein to rejoin the investigation and hand over the mobile phone, in which he has taken the video and had shown it to the Panchayat.

9. Today, this court is informed that the petitioner did rejoin the investigation on 14.07.2018 and when he was asked specific question that *“Did Astha Verma fell ill on 12.6.16. Did you click her photographs from your mobile phone. Do you want to get the mobile and photograph recovered”* then he gave an evasive reply to the same that *“12.6.16 was my birthday and we do not not have any photographs of the same. She had gone to her parents home out of her sweet will.” (translated version).*

10. In view of the fact that the petitioner had been given an opportunity to hand over the mobile phone, in which he has taken the video clip of the complainant, but despite that he did not do so, for which custodial interrogation of the petitioner is required.

11. The grant of anticipatory bail is a discretionary relief and the conduct of the petitioner has to be seen as well. In view of the peculiar facts and circumstances of the present case and nature/gravity of the offence, this court is of the considered view that no ground is made out to grant the relief of anticipatory bail to the petitioner herein. Accordingly, the petition in hand is hereby dismissed, being devoid of any merits.

12. However, anything observed hereinabove shall have no affect on the merits of the case, which is only for the purpose of deciding the anticipatory bail application.

September 27, 2018
vijay saini

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No