

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

Criminal Misc. No.M- 46443 of 2016(O&M)

Date of Decision: March 13 , 2018.

Narender Rohilla

..... PETITIONER (s)

Versus

State of Haryana and another

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Hari Om Verma, Advocate
for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

Complainant/respondent No.2 in-person.

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.0372 dated 18.11.2016, under Sections 323/406/498A/506/120B IPC, registered at Police Station Pinjore.

It is submitted that the abovesaid FIR has been registered due to temperamental differences between the petitioner and his wife, the complainant. The petitioner and the complainant were known to each other. They performed marriage on 04.12.2013 at Shimla before the Executive Magistrate, Shimla as per their wishes. Ceremony was also performed at the Arya Samaj Mandir, Lower

Bazar, Shimla in a simple manner without the parents or relatives of any of the parties. Parents of both the petitioner or complainant did not welcome this step and they ultimately started living in rented premises. The petitioner's brother, working as a Tax Consultant passed away in an accident on 27.08.2014. The complainant got infuriated with the petitioner when he did not listen to her for not performing the last rites of his brother to whom the petitioner was very close as they had lost their mother when the petitioner was two years old. The petitioner also started looking after the business of his brother as it was his duty to look after the family. The complainant without any rhyme or reason started harbouring suspicion regarding the relationship of the petitioner with his elder sister-in-law (Bhabhi) whom the petitioner considered a mother figure. The complainant, it is contended, used to threaten him to commit suicide. The petitioner ultimately filed a petition under Section 13 of the Hindu Marriage Act, 1955 on 31.03.2016. It is contended that the complainant tried to commit suicide twice due to which the petitioner feels insecure in regard to resumption of matrimonial ties with her. Reference is made to DDR dated 26.12.2015. Another attempt was made by her for committing suicide on 30.03.2016 by consuming phenyl (though there is nothing on record to indicate the same at this stage). Another DDR dated 02.04.2016 was lodged when the complainant allegedly hurled a brick on the windscreen of the car of the petitioner. It is submitted that discord has been there between the parties since the year 2015. The complainant on 31.08.2015 lodged a complaint against the petitioner, which was thereafter withdrawn. Reference is made to Annexure P2. Thereafter the complainant, it is alleged, on 05.10.2016 in a totally malafide manner got herself medically

examined at Solan (Annexure P7), but at the same time made a statement before the police of Police Station, Nalagarh that she did not wish to take any action at the said place and she would lodge a complaint in Haryana. Subsequently, she preferred a petition under Section 156(3) Cr.P.C. before the Area Magistrate, Kalka, on the basis of which the present FIR was lodged.

It is submitted that the petitioner undertakes to regularly pay the maintenance awarded to the complainant at the rate of ₹5,500/- per month before the learned Sub Divisional Judicial Magistrate, Kalka. He has already deposited a sum of ₹40,000/-. A demand draft bearing No.003489 dated 12.03.2018 for a sum of ₹53,000/- drawn on the HDFC Bank, Nalagarh in favour of the complainant has been handed over to the complainant, who is present in Court duly identified by ASI Sawinder Singh. With the said deposit, it is stated that the entire arrears of maintenance upto 31.03.2018 stand cleared. Recoveries have been effected. The petitioner further undertakes to pay the entire amount of ₹7,440/- (i.e., three EMIs at the rate of ₹2,480/- of the mobile phone) within the next two weeks through RTGS directly in the account of the complainant without prejudice to his rights. Moreover, the petitioner, it is submitted, 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.

The complainant, present in-person and learned counsel for the State however submit that there are specific allegations of ill-treatment and harassment meted out to the complainant by the petitioner and his other family members.

Reference is made to the medico-legal report to submit that she was beaten by the

accused persons. The complainant however does not deny that her marriage to the petitioner was a love marriage, though it is contended that her parents had agreed and dowry was given at the time of marriage. Mention is made of the death of the petitioner's brother in 2014 and allegations of illicit relations with the petitioner's sister-in-law (Bhabhi) are raised. It is stated that the complainant was forced to drink phenyl and sign blank papers as well. The complainant/respondent No.2 submits that a mobile phone was purchased by the petitioner, the installments (EMIs) of which are being paid by her. She submits that three installments at the rate of ₹2,480/- still remain to be paid. It is however not denied that arrears of maintenance have been paid by the petitioner.

Learned counsel for the State, on instructions from ASI Sawinder Singh, submits that though the petitioner has joined investigation, certain gold articles are yet to be recovered. It is however confirmed 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.

It is noticed that mediation between the parties was effected, however the complainant is not ready for any settlement, but for rehabilitation of the matrimonial ties, whereas the petitioner is apprehensive of the same due to previous attempts by the complainant to commit suicide. He had however offered a permanent settlement, which is not acceptable to the complainant. In this situation, no useful purpose shall be served by taking the petitioner in custody.

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 23.12.2016 is made absolute.

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.

March 13, 2018.
'om'

(LISA GILL)
JUDGE

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