

Criminal Misc. No. M- 4883 of 2017 (O&M)

Date of decision : March 15, 2018

Jatin Jain

.....Petitioner

Versus

State of Haryana and another

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. R.S. Bains, Advocate for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

Ms. Kiran Bala Jain, Advocate and

Ms. Prabha Sharma, Advocate for respondent No. 2.

LISA GILL, J.

Prayer in this petition is for grant of anticipatory bail to the petitioner in FIR No. 425 dated 17.09.2016 under Sections 498A, 406, 506 IPC registered at Police Station Sector 31, Faridabad.

It is submitted that the present FIR has been lodged due to temperamental differences between the petitioner and the complainant. Marriage between the petitioner and the complainant, it is contended, was in fact a love marriage with the consent of both the families. A simple marriage ceremony was performed. The complainant was afforded all love and affection in the matrimonial home. Allegations regarding ill-treatment, harassment and demand of dowry mentioned in the FIR are stated to be incorrect. It is further submitted that allegation in the FIR attracting the rigours of Section 377 IPC was not found to be made out and the petitioner is not being proceeded against for the said offence.

Learned counsel for the petitioner points out that marriage between the petitioner and the complainant was solemnised on 25.01.2015.

The complainant left the matrimonial home of her own accord on

04.07.2015. When she left the matrimonial home on 04.07.2015, she took all her articles alongwith. Reference is made to the photographs, Annexure P-12 to contend that the complainant left the matrimonial home alongwith her family members with her luggage. It is further contended that statements of the bank accounts of the complainant as well as of the joint account of the complainant and the petitioner's mother would reveal that no part of her salary or money was ever withdrawn for being spent in the matrimonial home. In the joint account as above, it is the petitioner's mother, who contributed about ₹20,000/-. Salary of the complainant, it is submitted, used to remain intact and was not withdrawn. In regard to the allegations of physical abuse levelled in the FIR, it is submitted that there is no medical evidence on record to substantiate the same. Moreover, a petition under Section 13 of the Hindu Marriage Act, 1955 ('the Act' – for short) was filed by the petitioner in May, 2016 (Annexure P-3). It is thereafter that the present FIR has been registered on 17.09.2016. It is, thus, a counterblast to the divorce petition filed by the petitioner.

The petitioner, it is submitted, has joined investigation. The petitioner, who is present in Court states that in order to show his bona fides, he undertakes to deposit a sum of ₹7.5 lakhs before the learned trial Court though without any prejudice to his rights. The said amount, it is submitted, shall be deposited within two weeks. He undertakes to face the proceedings and not abuse the concession of anticipatory bail, if confirmed.

Learned counsel for the complainant and the State have opposed this application. Learned counsel for the complainant argues that there are specific allegations of ill-treatment, harassment and demand of

dowry, which have been raised against the petitioner. It is further submitted that the FIR was not lodged at an earlier stage as the complainant wished to save the matrimonial home. It is only when intentions of the petitioner became apparent after filing of the divorce petition that the complainant was constrained to lodge the present FIR.

It is noticed that this matter was placed before the Mediation and Conciliation Centre of this Court but mediation was not successful. Effort was made to enable the parties to resolve the dispute, however, the petitioner and respondent No. 2 could not amicably resolve the matter.

Learned counsel for the State, on instructions from ASI Amarjit, verifies that the petitioner has joined investigation though it is submitted that certain recoveries are to be effected.

This Court in **Prit Pal Singh versus State of Punjab and another 2014 (5) RCR (Criminal) 771** observed 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. Consequently, order dated 15.02.2017 is made absolute subject to the petitioner depositing a sum of ₹7.5 lakhs before the learned trial Court within two weeks from today. Needless to say the deposit of this amount shall be without prejudice to the rights of the petitioner.

It is reiterated that there is no expression of opinion on the merits of the case. The observations in this order are confined for the decision of this petition only.

March 15, 2018
rts

(Lisa Gill)
Judge

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