

Criminal Misc. No. M- 49057 of 2017 (O&M)

Date of decision : February 27, 2018

Arvind Singh Rajpurohit

.....Petitioner

Versus

State of Haryana

....Respondent

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

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

Mr. Jai Bhagwan Sharma, Advocate
for the complainant.

LISA GILL, J.

Prayer in this petition is for grant of anticipatory bail to the petitioner in FIR No. 519 dated 23.10.2017 under Sections 498A, 406, 313, 376, 506, 377, 342, 511 IPC registered at NIT Faridabad, District Faridabad.

The petitioner as well as the complainant, duly identified by their counsel, are present in Court. As per the allegations in the FIR, marriage between the petitioner and the complainant was solemnised on 30.01.2015. The petitioner left for France in relation to his work on 15.02.2015. The complainant joined him at France on 25.03.2015. Both of them came back to India on 19.06.2015. A child was born out of this wedlock on 13.12.2015. Allegations of ill-treatment, harassment and dowry have been raised against the present petitioner, his mother and sister. Allegations attracting the rigours of Section 377 IPC have also

been levelled against the petitioner. It is stated that the complainant was not rehabilitated in the matrimonial home as the petitioner's demand for more dowry was not met with. On the basis of the said allegations, the above said FIR was registered.

Learned counsel for the petitioner vehemently argues that the petitioner is a Scientist, employed with Physical Research Laboratory, Government of India. He is presently stationed at Ahemdabad. Allegations in the FIR, it is submitted, are absolutely incorrect and false. The complainant had in fact wanted a separate residence where the petitioner's mother was not residing. However, the petitioner could not leave his mother alongwith his father as he is a chronic alcoholic. The complainant thereafter left the matrimonial house on her own. The petitioner having no option filed a petition under Section 13 of the Hindu Marriage Act ('the Act' – for short) at Rajasthan on 03.07.2017. Thereafter, the complainant filed a petition under Section 9 of the Act on 31.08.2017. Subsequent thereto, the present FIR was registered on 23.10.2017. Learned counsel for the petitioner submits that the complainant is in fact living in the house belonging to the petitioner's mother at Mount Abu. It is submitted that the petitioner undertakes to face the proceedings and shall not abuse the concession of anticipatory bail, if afforded to him. It is, thus, prayed that this petition be allowed.

Learned counsel for the complainant has opposed this application while submitting that specific allegations of ill-treatment,

harassment and allegations attracting the offence punishable under Section 377 IPC have been specifically levelled against the petitioner. Medical evidence on record would reflect the same. It is submitted that though the complainant was living at Mount Abu till 02.08.2017, she is now residing with her parents at Faridabad. It is not denied that petition under Section 13 of the Act has been filed by the petitioner on 03.07.2017 and petition under Section 9 of the Act was filed by the complainant on 31.08.2017. Learned counsel submits that recovery of the dowry articles is yet to be effected. It is, thus, prayed that this petition be dismissed.

Heard learned counsel for the parties at length.

It is to be noticed that mediation between the parties has failed. The complainant seeks nothing but resumption of matrimonial ties whereas the petitioner submits that the same may not be possible though he is ready and willing for a full and final settlement, in case, respondent No. 2 is ready to part ways. However, the same is not acceptable to the complainant.

Learned counsel for the State, on instructions from ASI Mohd. Aslam, verifies 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 in the Court, if released on bail.

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.

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.

February 27, 2018
rts

(Lisa Gill)
Judge

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