

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

CRM-M No.54731 of 2018

Date of decision: 20th December, 2018

Sidharth Gautam

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Prateek Pandit, Advocate for the petitioner.

Mr. Amrik Narwal, Dy. Advocate General, Haryana
for the respondent/State.

Mr. S.S. Salar, Advocate for the complainant.

FATEH DEEP SINGH, J. (ORAL)

This order shall dispose off first anticipatory bail application filed under Section 438 Cr.P.C. by accused petitioner Sidharth Gautam in case bearing FIR No.310 dated 09.11.2018 under Sections 323, 377, 406, 498-A, 504, 506, 34 IPC pertaining to Police Station Chandi Mandir, District Panchkula, Haryana.

The facts that have been brought to the notice of this Court are that initially on the complaint of the complainant Arpana Chouhan, wife of the accused petitioner, present FIR was got registered under Sections 406, 498-A, 504, 506, 34 IPC and during the course of events the parties effected a compromise and filed a joint petition under Section 13-B of the Hindu Marriage Act, 1955 seeking divorce through mutual consent which is Annexure P6 and subsequently, on the basis of the same

had made statement in first motion (Annexure P7) whereby the complainant had shown her resolve and so the husband that they would not file any civil or criminal case or any other case whatsoever against each other or their family members and not to interfere in each others' life henceforth. It is subsequent to this understanding arrived at between the parties, the wife has received Rs.5.00 lacs as full and final settlement and subsequently on 26.11.2018 the wife had made a supplementary statement before the investigating officer leading to addition of offences under Sections 323, 377 IPC and which has led to filing of the present anticipatory bail application.

Learned counsel for the petitioner Mr. Prateek Pandit, Advocate has vehemently argued that in the light of joint statement (Annexure P7), the parties have satisfied all the claims and counter-claims arising out of this marriage and that even in her private complaint (Annexure P10) the wife has not levelled any allegations under Sections 377 and 323 IPC which was filed on 23.08.2018 and that subsequently on false and fabricated allegations the present allegations have come about for a motivated cause.

Learned State counsel Mr. Amrik Narwal, Dy. Advocate General, Haryana on instructions from ASI Yogdhyan, Police Station Chandi Mandir, Panchkula assisted by learned counsel for the complainant Mr.S.S. Salar, Advocate have opposed the grant of bail on the grounds of heinousness of the offence and seriousness of allegations.

It is contended that subsequent to this statement before the matrimonial Court after some time the husband had taken away the wife on a false pretence and had committed sodomy and physically abused her, and thus have prayed that custodial interrogation of the petitioner is very much essential.

Appreciating the submissions, the complainant wife in her statement (Annexure P7) made before the matrimonial Court had resolved the dispute and was adequately compensated and had undertaken not to file any civil or criminal case arising out of this marriage but in her subsequent criminal complaint (Annexure P10) filed on 23.08.2018 has levelled insinuations under Sections 498, 406, 504, 506, 34 IPC and belatedly on 26.11.2018 after a great delay in her supplementary statement allegations under Sections 377 and 323 IPC have cropped up, when admittedly the occurrence has taken place way-back from March 2018 to May 2018. Thus, in the light of what has been detailed and discussed above, a debatable issue arises over the very veracity of these allegations and the motive behind the same. Without adverting on the merits, lest it may prejudice the case of either side at the trial, it is a fit case where the petitioner deserves the concession of anticipatory bail.

Accordingly, in the event of arrest, petitioner is ordered to be released on bail to the satisfaction of the Arresting Officer till submission of report under Section 173 Cr.P.C. (challan). He shall continue to join

investigation and shall furnish an undertaking that he shall abide by the conditions specified under Section 438 (2) Cr.P.C. Thereafter, the petitioner will be permitted to furnish regular bail bonds to the satisfaction of the trial Court.

The petition stands disposed off accordingly.

(FATEH DEEP SINGH)
JUDGE

December 20, 2018

rps

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