

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

CRM-M No.3481 of 2019 (O&M)

Date of decision: 20th March, 2019

Diwakar Jaiswal

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. C.M. Munjal, Advocate for the petitioner.

Ms. Dimple Jain, Asstt. Advocate General, Haryana
for the respondent/State.

Ms. Sukhpreet Kaur Grewal, Advocate for the complainant.

FATEH DEEP SINGH, J. (ORAL)

Allegations against the petitioner Diwakar Jaiswal in this first anticipatory bail application under Section 438 Cr.P.C. in case bearing FIR No.491 dated 26.11.2018 under Sections 498-A, 406, 323, 313 (since deleted), 506, 34 IPC pertaining to Police Station NIT Faridabad, have been levelled by the complainant wife Renu Jaiswal alleging that the marriage between the complainant and the petitioner was solemnized in the year 2007 and out of which the couple has been bestowed with a male child who is now nine years old and residing with the petitioner husband. It is alleged that the family of the complainant had given adequate dowry to the petitioner at the time of marriage however, the petitioner was not happy with this and often used to maltreat her on account of insufficiency of the same. It is further alleged that on account

of repeated physical abuses the wife was forced to leave her matrimonial home leading to registration of the present case on 26.11.2018.

Learned counsel for the petitioner Mr. C.M. Munjal submits that it is the own stand of the complainant that after eleven years of their matrimonial life the present allegations have come about and no other complaint, oral or in writing, could be established against the husband, the present petitioner and thus, has sought to stress the fact that there is no ground for custodial interrogation of the petitioner in such circumstances.

On behalf of the State, Ms. Dimple Jain, Asstt. Advocate General, Haryana on instructions from ASI Kailash, Police Station NIT Faridabad assisted by Ms. Sukhpreet Kaur Grewal, Advocate representing the complainant though does not displace the facts brought to the notice of this Court by learned counsel for the petitioner but has opposed the grant of relief to the petitioner on the grounds that the complainant was mercilessly beaten up during this period and therefore the petitioner husband is not entitled to any concession of bail.

Appreciating the submissions of the two sides, learned State counsel assisted by learned counsel for the complainant certainly accept the fact that it is after eleven years of the matrimony the present complaint has come about and in-between no such grievance was ever aired thus, a debatable issue having arisen over the very applicability of Section 406 IPC. Even to the specific query of the Court, State could not convince any proof of medical evidence of merciless beatings by the

petitioner and the only piece of evidence is the MLR dated 21.05.2018 around the time of registration of the FIR which only depicts simple injuries. In view thereof, this Court is of the opinion that it is a fit case for grant of 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, on presentation of challan, 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

March 20, 2019

rps

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No