

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

CRM-M-3439 of 2019.

Decided on:- April 24, 2019.

Manpreet Singh.

.....Petitioner.

Versus

State of Punjab.

.....Respondent.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

Argued by:- Mr. Bhoop Singh, Advocate
for the petitioner.

Mr. Rana Harjasdeep Singh, D.A.G., Punjab.

Mr. Aayush Gupta, Advocate
for the complainant.

HARI PAL VERMA, J.

Prayer in this petition filed under Section 438 Cr.PC is for grant of anticipatory bail to the petitioner in FIR No.1 dated 08.01.2019 under Sections 406 and 498-A IPC registered at Police Station Women, District Ludhiana.

The aforesaid FIR was registered at the behest of complainant Navpreet Kaur, who is wife of the petitioner. As per the FIR, the complainant has studied upto BBA, MBA and her marriage was solemnised with the petitioner on 03.09.2016. On pre-marriage and post-marriage ceremonies, the parents of complainant had spent a huge amount beyond their capacity as per demands of the accused. At the time of finalisation of the matrimonial alliances, the accused had told the parents of the complainant that the petitioner is an intelligent and educated boy having passed the Diploma of Medical Engineering from R.A.D. Centre, Ludhiana and is Director of J.P.

Cycles Pvt. Ltd. He does not take any intoxicant and is physically fit. The Roka ceremony was solemnised at Raddison Hotel, Ludhiana on 25.12.2015, where parents of the complainant had given one gold chain of 5 Tolas to the petitioner and Rs.11,000/- as Shagun. Similarly, everybody who attended the function was given Rs.1100/- as Shagun. A total sum of Rs.2,50,000/- was spent on Roka ceremony which was followed by ring ceremony on 07.02.2016 at Maharaja Palace, Ludhiana, where 150 persons attended the function. The parents of complainant had given one diamond ring, gold Kara, gold ginni and Rs.51,000/- in cash as Shagun. The other items as AC and LED were given to the petitioner, whereas costly clothes were given to accused Surinder Kaur (mother-in-law) and Harpreet Kaur (sister-in-law/ Jethani). Shagun was given to everybody, who attended the function and an amount of Rs.15 lakh was incurred on this function alone. Thereafter, the petitioner had demanded camera Sony make on the occasion of his birthday on 03.08.2016 and this demand was fulfilled. At the time of marriage, about 600 persons participated in the Barat which was warmly welcomed. As per the demand of the accused, one refrigerator, washing machine, double bed, almirah and iron Peti were given to the accused as Streedhan. One gold set each to accused Surinder Kaur (mother-in-law) and Harpreet Kaur (sister-in-law/ Jethani) and one gold set to the grandmother-in-law, 11 Milnis with gold ear-rings and gold rings, one gold Kara, one gold bracelet, one gold chain and Rs.2 lakh as Shagun were given. Besides this, a Hyundai Creta car was given to the petitioner and costly clothes as well as gifts were also given. The parents of the complainant had given 5 gold sets, gold rings, 21 suits, 11

beddings, 101 utensils and other gifts to the petitioner in the shape of Streedhan of the complainant. However, after the marriage, all the accused in one voice started taunting the complainant that her parents had not solemnised the marriage as per the status of the accused, nor they had given the dowry articles as per the status and liking of the accused. When accused Balwinder Singh (father-in-law) and Surinder Kaur (mother-in-law) came to know that the aforesaid Creta car is registered in the name of the complainant, they started raising demand from the parents of the complainant for transfer of registration of the car in the name of accused Balwinder Singh (father-in-law). They had also given a threat that in case the demand is not fulfilled, they will give beatings to the complainant and will turn her out from the matrimonial house. Under the compelling circumstances, the parents of complainant had spent a sum of Rs.1 lakh on accessories of the Creta car.

After few days, the complainant had come to know that the accused had told a lie about his educational qualification and when she asked the petitioner to show the certificates of his educational qualification, he made false excuse that his niece had torn those certificates. After some time, the complainant also came to know that there is an iron rod in the left leg of the petitioner as his left leg got fractured in the year 2007. The petitioner is also having stone and is suffering from cervical and other ailments, but this fact was kept concealed from the complainant. The petitioner is also suffering from sleeping problem and accused Surinder Kaur (mother-in-law) used to make him to sleep. The petitioner is also not having control over his hands and accused Surinder Kaur (mother-in-law) used to make him to eat meals.

All the accused in connivance with each other and under pre-planned scheme concealed these facts from the complainant and her parents. One day, the complainant after getting permission from the petitioner went to beauty parlour along with accused Surinder Kaur (mother-in-law), but petitioner at the instance of other co-accused gave merciless beatings to the complainant as she got late by 5 minutes. Thereafter, again when the complainant had gone to see the newly born child of accused Harpreet Kaur, the petitioner caught hold her from her neck and also gave kick blows in her stomach.

On 13.06.2017, the complainant delivered a female child in Suman Hospital and all the expenses of the hospital were borne by the parents of the complainant. The accused were not happy with the birth of a female child. The accused harassed the complainant for demand of dowry many times and the petitioner used to beat her. He even tried to kill her and ultimately, the parents of complainant took her with them and now, she is residing in her parental house. Panchayats were convened time and again, but the accused persons are not ready to rehabilitate the complainant. Neither they have returned the Streedhan of the complainant nor paid any maintenance to her.

Learned counsel for the petitioner has argued that from the wedlock, a daughter was born and the petitioner is taking care of the daughter, who is about 1½ years of age as the complainant has left the matrimonial home. The marriage was simple and no dowry was demanded before or after the marriage as alleged in the FIR. The parents of the complainant are living in the same locality and are continuously interfering in the day to day family

affairs of the petitioner. They, rather, insisted the petitioner to stay in his in-laws' house. The complainant left the matrimonial home on 10.03.2018 and had taken away all the gold ornaments and the ornaments given to her by the family of the petitioner. The complainant is a lady of hot temperament. The efforts made by the petitioner to get her back have failed and the present FIR is motivated. Since it has always been the intention of the petitioner to keep his wife with him, he had filed a petition under Section 9 of the Hindu Marriage Act, 1955, which is pending before the matrimonial Court and now fixed for 16.05.2019. The petitioner also served a notice dated 31.07.2018 to the complainant for taking back the articles i.e. AC, LED, refrigerator, washing machine, almirah, sofa etc. from the house of the petitioner. The complainant has also filed a complaint under Section 12 of the Protection of Women from Domestic Violence Act against the entire family of the petitioner which is pending before the Magistrate.

On the other hand, learned counsel for the complainant has argued that it is on account of harassment and demand of dowry, the complainant had no option except to leave the matrimonial home. Otherwise, no wife would like to leave her matrimonial home. The recovery of dowry articles is yet to be effected which include the gold ornaments, as only part of recovery has been effected in the case. There are specific allegations against the petitioner and, therefore, custodial interrogation of the petitioner is required as recovery is yet to be effected.

I have heard learned counsel for the parties.

Vide order dated 25.01.2019 passed by this Court, arrest of the petitioner was stayed and the parties were directed to remain present in Court. Pursuant thereto, the parties came present in Court and the matter was sent to the Mediation and Conciliation Centre of this Court. However, the matter could not be resolved there.

The marriage of the petitioner solemnised with the complainant on 03.09.2016 and the birth of a female child on 13.06.2017 is not in dispute. The allegations as made in the FIR do reflect that there are temperamental differences between the parties. There are allegations in the FIR that the petitioner is solely dependent upon his mother. The female child of 1 ½ years is being looked after by the petitioner and his family members as the complainant has left the matrimonial home.

The allegations levelled by the complainant that she was subjected to cruelty and harassment on account of demand of dowry and her condition became worse when she gave birth to the girl child are yet to be established during the trial. Number of times the matter has been intervened by the Panchayat and compromise was also effected, but differences continue to survive. In the FIR, there are allegations against the petitioner that his behaviour was not like an educated person and the complainant came to know that there is an iron rod in the left leg of the petitioner as his left leg was fractured in the year 2007. The petitioner has also stone and suffering from cervical and other ailments and these facts were concealed by the accused from the complainant. The petitioner is also suffering from sleeping problem and it is his mother, who is used to make him sleep. The petitioner is so

dependent upon his mother that whenever he is used to wake up, the work of his topknot, clothes, tying turban, shoes, socks etc. is done by his mother. The petitioner is not used to take his meal with his own hand. May be that the petitioner is a pampered son, but having rod in his left leg and he is a patient of cervical and stone cannot be stated to be a ground that the petitioner has harassed the complainant. The complainant may have personal problems with the petitioner-husband, but these facts have been made part of the complaint.

Therefore, without commenting on the motive of the complainant, but considering the fact that out of the wedlock, a girl child is born, who is about 1 ½ years of age and is living with her father, this Court finds that the petitioner deserves to be admitted on anticipatory bail. The part recovery itself is no ground to decline him the benefit of anticipatory bail.

Accordingly, the present petition is allowed and in case the police finds any material against the petitioner warranting his arrest, he shall be given one week clear notice in advance so as to enable him to avail the appropriate remedy according to law.

However, the petitioner shall join the investigation as and when directed by the investigating agency and shall abide by the terms and conditions laid down under Section 438(2) Cr.P.C.

April 24, 2019
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No