

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc. No. M-14959 of 2017 (O&M)
Date of decision : January 10, 2019

Pavittar Nath @ Bittu

....Petitioner

versus

State of Punjab

....Respondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Narinder S. Lucky, Advocate for the petitioner
Mr. AS Sandhu, Addl. AG Punjab
Mr. Rishu Mahajan, Advocate for the complainant

Fateh Deep Singh, J. (Oral)

The present regular bail application by accused-petitioner Pavittar Nath @ Bittu has been filed in case FIR No. 140 dated 23.9.2013 under Sections 406, 498-A IPC, Police Station Kartarpur, District Jalandhar.

The present case was got registered by complainant-wife Manjeeta alias Bholi alleging that she was married to the petitioner on 21.2.2003 and out of which two children have been born to the couple. The husband left for Dubai and even during his stay in India used to physically abuse the complainant wife and taunted her for insufficient dowry and demanded more. It is on his return from Dubai, the complainant alleges that

the husband had ill-treated her leading to the registration of the present case on 23.9.2013 and during which period on 28.7.2014, the petitioner was declared as proclaimed offender and on his return to India was arrested on 1.1.2017. It was subsequent during the pendency of the present bail application, the Coordinate Bench allowed interim bail on 2.9.2017 and in pursuance of which two FDRs of Rs 2 lacs each, totalling Rs 4 lacs were made by the husband.

Mr. Narinder S. Lucky, counsel for the petitioner has argued that bare perusal of the allegations do not specify any allegations of entrustment of dowry articles nor any criminal breach of trust qua them arguing that the marriage has taken place in the year 2003 and the FIR has come about after 10 years and the petitioner has already undergone incarceration for a period of more than nine months.

Mr. AS Sandhu, learned State counsel assisted by Mr. Rishu Mahajan, counsel for the complainant have opposed the grant of bail on the ground that the petitioner was granted interim bail on the condition of his undertaking that he will be paying maintenance to the wife which he has failed to do so arguing that the petitioner is reticent to the needs of the family and thus is not entitled to any relief.

Going through the submissions of the two sides, admittedly the petitioner in this case remained behind the bars for nine months. A bare perusal of the FIR and the allegations contained therein, a debatable issue arises over the element of demand of dowry and criminal breach of trust

together with the fact that the FIR has come about after ten years of the matrimony and therefore, a debatable issue over the limitation as well. Keeping in view that the petitioner has remained in custody for nine months in this case and it would be traversity of justice to send him again behind the bars. Culpability if any shall be determined at the trial. The question of payment of maintenance is to be seen by the Executing Court dealing with the maintenance matter.

In the light of what has been detailed and discussed above, it is a fit case for grant of regular bail. Accordingly, he is ordered to be released on regular bail on furnishing two sureties of Rs One lac each to the satisfaction of learned Chief Judicial Magistrate/Duty Magistrate, Jalandhar. The petitioner is also directed to surrender his passport before the concerned trial court to ensure that he does not fleece from justice.

The present petition stands disposed off accordingly.

The observations made herein above shall have no bearing on the merits of the case as these are purely for the disposal of the present bail application.

January 10, 2019

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**(Fateh Deep Singh)
Judge**

Whether speaking/reasoned ?

Yes/No

Whether Reportable ?

Yes/No