

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

CRM-M-21289 of 2018.

Decided on:- May 15, 2019.

Varinder Kumar @ Gori.

.....Petitioner.

Versus

State of U.T., Chandigarh and another

.....Respondents.

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

Present:- Mr. Sandeep Arora, Advocate
for the petitioner.

Mr. Amit Kumar Goyal, APP, U.T., Chandigarh.

Mr. Balbir Singh, Advocate
for respondent No.2-complainant.

HARI PAL VERMA, J.

Prayer in this petition filed under Section 438 Cr.P.C. is for grant of anticipatory bail to the petitioner in FIR No.25 dated 09.04.2018 under Sections 406 and 498-A IPC registered at Police Station Women Cell, Chandigarh.

In terms of order dated 07.03.2019 passed by this Court, learned counsel for the petitioner has handed over a bank draft of Rs.1,10,000/- to learned counsel for respondent No.2 towards the outstanding amount of maintenance under Section 125 Cr.P.C. He has further submitted that in this manner, the whole outstanding maintenance upto date stands paid.

Learned counsel for respondent No.2-complainant has accepted the amount and is fair enough in submitting that the maintenance upto May, 2019 has been paid and nothing is outstanding.

The aforesaid FIR was registered at the behest of respondent No.2-complainant Garima Kandal, who got married to the petitioner on 26.01.2015. As per the FIR, sufficient dowry was given by the parents of the complainant as per their capacity. Around Rs.25 lakh were spent in the marriage. Before marriage, about Rs.50,000/- were spent on Roka ceremony held on 05.10.2014. Thereafter, on 17.01.2015, ladies sangeet program was performed in Aroma Hotel, Sector-22, Chandigarh on which expenses of Rs.3.5 lakh were incurred. The marriage was solemnised in Vikram Palace, Kapurthala Road, Jalandhar. The details of dowry articles has been attached with the FIR. The father of the complainant had also given Rs.30,000/- to the petitioner for honeymoon, but after some time of marriage, the petitioner, his mother and uncle (Mama) Om Parkash and both brothers-in-law (Jeth) of the complainant started harassing the complainant and made demand of dowry.

FIR further states that earlier, it was informed that the petitioner is a lecturer in an engineering college at Kapurthala Road and is getting Rs.25,000/- per month as salary, but it was noticed that after marriage, he never went to his job. The petitioner is a drunkard and addicted to intoxicants. When the complainant tried to stop him, the petitioner and mother-in-law of the complainant gave her beatings and told her that in case she will not bring money, they will not allow her to live in the house. Thereafter, the petitioner and mother-in-law of the complainant left her in Chandigarh and made a

demand of Rs.5 lakh from her parents on the ground that they have to start a business and money is required for this purpose. Thereafter, on 26.04.2015, the husband, mother-in-law and Jeth Sunny came to her parental home and her father gave Rs.2 lakh and they took her (complainant) along with them to Jalandhar. However, on the night of 17.10.2015, the petitioner started beating the complainant after consuming intoxicants. She was 8 months pregnant at that time. The petitioner gave kick blows on her stomach and her mother-in-law was holding her and by giving pushes threw the complainant out of the house. The complainant went to the house of mediator Prem Kumar, despite being in pain. The complainant shared the incident to her parents.

On 16.11.2015, the complainant gave birth to a male child and entire expenses of delivery were borne by her parents. On 13.03.2016, her parents again sent her (complainant) to Jalandhar. On 01.04.2016, the petitioner made demand for an AC and took Rs.35,000/- from her parents for AC. On one night, when the complainant demanded her gold jewellery, which was in the custody of her mother-in-law, but the mother-in-law refused to give the jewellery and entire Streedhan is still in the custody of the mother-in-law and all dowry articles have been misappropriated.

With these allegations of beating and demand of dowry, the aforesaid FIR was registered.

Vide order dated 18.05.2018, on the submissions made by learned counsel for the petitioner that all the dowry articles have been recovered, this Court had granted interim bail to the petitioner with further direction to join the investigation and thereafter, the matter was referred to the

Mediation and Conciliation of this Court, but no amicable settlement arrived at between the parties. However, during pendency of the present petition, upto date maintenance has been cleared by the petitioner.

Learned counsel for the petitioner has argued that the allegations levelled against the petitioner are false. The petitioner had never given any beating to the complainant as being alleged. He is an innocent person and the present FIR is false and motivated. The marriage was simple. Neither any demand of dowry was made before the marriage nor after the marriage. The complainant was never maltreated for demand of dowry. Since no beating was given to the complainant, no such injury was found on her person. The complainant was residing in joint family, whereas she was inclined to stay in a separate house from the parents and other family members of the petitioner, she has implicated the petitioner in a false case. While leaving her matrimonial home, the complainant had taken away all gold articles.

He has further argued that whenever anything goes wrong between a married couple, the husband and his family are generally at the receiving end despite the wrong on the part of the wife and case of the petitioner is not an exception to that. The marriage was solemnised on 26.01.2015 whereas present FIR was registered on 09.04.2018 i.e. after a period of more than 3 years.

On the other hand, learned counsel for respondent No.2-complainant assisted by learned State counsel has argued that as per the bill submitted to the investigating officer, 11 tolas gold was given in the marriage and this gold jewellery was required to be recovered, whereas only 2.5 tolas

gold has been recovered in the case so far. In this manner, 8.5 tolas gold is yet to be recovered. There is serious allegation of maltreating the complainant and of giving beatings. The recovery of gold articles is yet to be effected from the petitioner as the same has not been effected despite petitioner having joined the investigation. However, outstanding amount towards maintenance has been paid during the proceedings pending before this Court.

I have heard learned counsel for the parties.

In the present case, marriage between the petitioner and complaint is not very old as it was solemnised on 26.01.2015. Generally, no wife would like to leave the matrimonial home unless she is forced to do so. The copies of bills referred by learned counsel for the complainant show that the gold jewellery of 22.20 grams and 46.20 grams was purchased by the parental family of the complainant on 14.10.2014 and 17.01.2015 respectively i.e. immediately before the marriage. There are allegations of beatings and harassing the complainant on account of demand of dowry against the petitioner. Therefore, this Court finds that no ground is made out for grant of anticipatory bail to the petitioner.

Accordingly, the present petition, being devoid of any merit, is dismissed.

May 15, 2019
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No