

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc. No. M-13122 of 2019 (O&M)
Date of decision : October 17, 2019

Komal Kharbanda and another

....Petitioners

versus

State of Punjab

....Respondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present: Mr. SPS Sidhu, Advocate, for the petitioners

Ms. Sakshi Bakshi, AAG, Punjab for the State/
respondent with SI Dalbara Singh, PS Women Ludhiana

Mr. SS Behl, Advocate, for the complainant
Complainant in person

Fateh Deep Singh, J. (Oral)

Petitioners Komal Kharbanda mother-in-law and Rosal Kharbanda an unmarried sister-in-law of complainant Rachna have filed this second petition (earlier having been withdrawn on 15.9.2019 on account of addition of certain offences) for grant of anticipatory bail in case bearing FIR No. 406, 498-A, 294, 354, 313, 120-B IPC, Police Station Women Cell, Ludhiana.

As is there in the records and so in the submissions of the two sides, marriage between the complainant and Ankit Kharbanda son and brother of the petitioners respectively was solemnized on 5.10.2017 where sufficient dowry articles, gold, cash and other material, house-hold articles were given and which were handed over to the accused. However, the accused were not happy with the same and have raised a demand of Innova car or in its alternative Rs 20 lacs in cash and subsequently due to non-fulfillment of the demand of the accused, as alleged by the complainant, lead to the registration of the present case in which the husband, maternal uncle and father-in-law of the complainant were arrested.

Mr. SPS Sidhu, learned counsel for the petitioners inter-alia contends that the principal accused husband has since been arrested and so the father-in-law and no article has been recovered rather falsifies the case of the prosecution and that there is no specific entrustment of any of the articles of Ishtridhan to any of the petitioners is there and that mere joining the investigation by the petitioners would suffice the purpose.

Learned State counsel assisted by counsel for the complainant has forcefully opposed the grant of bail on the grounds

that the petitioners have not only committed criminal breach of the articles of Ishtnidhan, cash and other costly items but have also been instrumental in inducing abortion on the person of the complainant and in view of heinousness of the offence disentitles the petitioners to any relief.

Going through the submissions of the two sides, a perusal of the allegations contained in the first information report got registered by the complainant side, there is no specific allegations of having handed over specific articles of Ishtnidhan belonging to the complainant to any of these accused or their refusal to return back the same thus resulting in criminal breach of trust. The lengthy FIR is reflective of the sordid tales of woes in this matrimonial disaccord between the couple. The learned State counsel with all fairness, on the specific query of the Court, states that there is no medical evidence as far as commission of offence under Section 313 IPC is concerned. The principal accused husband of the complainant and his father have been arrested along with other accused. Being ladies, in the absence of any specific allegations and cause of their custodial interrogation, it would be traversity of justice to decline them this concession. The culpability, if any, shall be determined during the trial. Their joining the investigations would suffice the

purpose.

In view of the aforesaid, being the women, the present petition is allowed. In the event of arrest, the petitioners shall be released on interim bail to the satisfaction of arresting/investigating officer till submission of report under section 173 Cr.P.C. (challan). The petitioners shall, however, join the investigation as and when called for and shall also abide by the conditions specified under section 438 (2) Cr.P.C. Thereafter, on presentation of challan, the petitioners will be permitted to furnish regular bail bonds to the satisfaction of the trial Court.

The present petition stands disposed of.

October 17, 2019
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(Fateh Deep Singh)
Judge

Whether speaking/reasoned ?
Whether Reportable ?

Yes/No
Yes/No