

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Date of decision : May 28, 2019

1. Criminal Misc. No. M-48139 of 2018 (O&M)

Sunil Kumar KathuriaPetitioner

versus

State of Punjab and anotherRespondents

2. Criminal Misc. No. M-48544 of 2018 (O&M)

Gaurav KathuriaPetitioner

versus

State of Punjab and anotherRespondents

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present: Ms Manju Goyal, Advocate, for the petitioners
Petitioner-Gaurav Kathuria also in person

Mr. Rakeshinder Singh Sidhu, AAG, Punjab for the State

Mr. GS Dhillon, Advocate, for the complainant
Complainant/respondent no. 2 also in person

Fateh Deep Singh, J. (Oral)

Since both these anticipatory bail applications under
Section 438 Cr.P.C. one by accused husband Gaurav Kathuria and

the other by father-in-law Sunil Kumar Kathuria of complainant's daughter Bhavleen Gaba have come up in the same very FIR No. 71 dated 22.9.2018, under Sections 498-A, 406 IPC, Police Station Women Cell-59, Ludhiana are being disposed of together.

The facts that have been canvassed are that the present case was got registered by Vinod Kumar Gaba father of the girl Bhavleen Gaba alleging that the marriage between his daughter and petitioner Gaurav Kathuria was solemnized on 3.12.2017 in a lavish style and as per the specific demands and desires of the accused side they had given sufficient amount of cash, costly articles etc. at the wedding including Ishtridhan worth Rs 40 lacs. It is complained that the household articles of the Ishtridhan of the girl were handed over to the accused family with the specific instructions that on return to the matrimonial home, the same would be handed over to the girl for her personal use. It is alleged that thereafter the accused refused to return the articles and being greedy persons had started harassing and torturing the girl for more articles. The complainant has alleged that his daughter was physically and mentally abused and inspite of best efforts of the complainant in convening Panchayat nothing could be sorted out leading to the registration of the present case.

Ms Manju Goyal, counsel for the petitioners has

contended that petitioner Sunil Kumar Kathuria is aged retired government servant who is suffering from various ailments and medical complications and there is no specific allegation against him in the commission of the offence and there are only general insinuation. It is argued that Gaurav Kathuria and the girl were residing separately at the place of posting of the boy and thus, allegations of harassment and cruelty by the accused family who all have been implicated does not arise and prayed for grant of relief.

Learned State counsel, Mr. Rakeshinder Singh Sidhu, AAG, Punjab assisted by Mr. GS Dhillon, Advocate, for the complainant though does not displace essential facts of the marriage but has opposed grant of relief on the grounds that there has been specific allegations of entrustment and assurance that the articles were meant for the personal use of the bride which the accused were supposed to hand over to her in the matrimonial home and refused to do so and thus, custodial interrogation of the petitioners is essential for the recovery of the same.

Appreciating the submissions, admittedly petitioner Sunil Kumar Kathuria is aged and infirm person. The girl and boy were residing separately and in the absence of specific entrustment of Ishtridhan being the aged father-in-law to the mind of this Court

improbalizes the allegations as it is usually the tendency to rope in parents of the boy to exaggerate the allegations. As far as the allegations against petitioner Gaurav Kathuria, being the husband and having been entrusted with the articles of Ishtridhan is certainly under obligation to return back the same. The State has taken specific stand that this petitioner is not cooperating with the investigations and has refused to return the articles of Ishtridhan. Thus, custodial interrogation of this petitioner is very much essential.

In the light of what has been detailed and discussed above, it is a fit case for grant of bail to Sunil Kumar Kathuria. Accordingly, CRM-M-48139-2018 is allowed and the interim bail granted to petitioner-Sunil Kumar Kathuria vide order dated 30.10.2018 is made absolute till submission of report under Section 173 Cr.P.C. (challan). Thereafter, this petitioner will be permitted to furnish regular bail bonds to the satisfaction of the trial Court. The petitioner shall abide by the conditions laid down in Section 438(2) Cr.P.C.

However, the prayer of accused-petitioner Gaurav Kathuria does not sustain and since his custodial interrogation is very essential to facilitate recovery of the articles of Ishtridhan as such his prayer for grant of anticipatory bail stands declined and CRM-M-

48544-2019 stands dismissed.

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 applications.

May 28, 2019
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(Fateh Deep Singh)
Judge

Whether speaking/reasoned ?
Whether Reportable ?

Yes/No
Yes/No