

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc. No. M-49116 of 2017 (O&M)

Date of decision : March 20, 2019

Hari Singh and another

....Petitioners

versus

State of Punjab

....Respondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present: Mr. Rajinder Goyal, Advocate, for the petitioners

Mr. Avtar Singh Sandhu, Addl. AG Punjab for the State

Mr. Vineet Sharma, Advocate, for the complainant

Fateh Deep Singh, J. (Oral)

This anticipatory bail moved by accused-petitioner no.2- Harjinder Kaur mother-in-law of complainant Manjot Kaur Buttar has come about in case FIR No. 147 dated 27.10.2015 under Sections 406, 498-A, 313 IPC and Section 4 of Dowry Prohibition Act, 1961, Police Station Chatiwind, Amritsar.

The allegations stems from the arguments are that the marriage between complainant and Satminder Singh Buttar co-accused non-applicant was solemnized on 18.2.2015 where costly gold jewellery and precious articles including household goods were given. However, the accused were not happy with the same and raised demand of a car and in the process started ill-treating and humiliating the complainant who was also taunted for bringing insufficient dowry. The girl too was mentally tortured. After some time of the marriage it is alleged that the husband went to Australia and at that time the complainant was in advance stage of pregnancy. It is alleged that on the asking of the husband all the accused conspired and in the last week of June, 2015 the complainant was forcibly administered medicine leading to abortion. It is thereafter the present case was got registered.

Mr. Rajinder Goyal, counsel for the petitioner submits that petitioner no. 2 mother-in-law was found innocent during investigations and neither any specific entrustment of dowry articles have been made to her nor of criminal breach of trust qua articles of Ishtridhan. It is argued that the dowry articles have already been recovered and offence under Section 313 IPC is not established by any medical means and prayed for grant of the bail.

Mr. AS Sandhu, learned State counsel assisted by ASI

Dilbagh Singh and Mr. Vineet Sharma, counsel for the complainant have stoutly opposed the grant of bail on the grounds that accused are guilty of commission of heinous offence of facilitating abortion against the wishes of complainant. Referring to the various orders it is claimed that the accused have failed to return the dowry articles inspite of innumerable opportunities and thus custodial interrogation is very much necessitated and prayed for dismissal of the bail.

Going through the submissions, the present case was got registered at the fag end of October, 2015 when as is there in the medical records of the hospital produced in the police file the abortion has taken place much prior thereto and there is written consent of the complainant and a witness. Thus, the very applicability of Section 313 IPC is a debatable issue which can be adjudicated only at the time of trial when the parties lead their respective evidence. It is the own stand of the State as well as the counsel for the complainant which is reflective from the orders in this case that certain gold articles lying in the locker are yet to be recovered though remaining articles stands recovered. The articles reflected in the list appended with the complaint do not all fall within the definition of Ishtridhan. The petitioner is an aged lady. It would be in the fitness of the things if she is allowed anticipatory bail subject to the conditions laid down in Section 438(2) Cr.P.C. as well as that she

will assist the police in opening the locker in question to enable the police to take possession of the articles lying therein subject to any claim/counter-claim by any of the parties which would be adjudicated in due course.

March 20, 2019
'tiwana'

(Fateh Deep Singh)
Judge

Whether speaking/reasoned ?
Whether Reportable ?

Yes/No
Yes/No