

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM M-53013 of 2018

Date of Decision: February 05, 2019

Vishal Verma		Petitioner
	Versus	
State of Haryana		 Respondent

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present : Mr. P.S. Ahluwalia, Advocate
for the petitioner.

Mr. Ripu Daman, AAG, Haryana.

Mr. Deepak Sharma, Advocate
for the complainant.

FATEH DEEP SINGH, J. (Oral)

This order shall dispose off anticipatory bail application under Section 438 Cr.P.C. moved in FIR No. 665 dated 05.11.2018 under Sections 323, 377, 406, 498-A, 506 and 34 IPC and Section 376(1) IPC which is added lateron, Police Station Civil Lines, Hisar, District Hisar.

In her complaint, complainant-Anika claimed that present petitioner Vishal Verma and she got married in Mohali in a Hotel on 21.07.2018 wherein huge dowry and costly gifts were given to the boy and other family members. After the marriage, it is alleged that the husband-petitioner Vishal Verma misbehaved with the complainant and forced her into unnatural sex and she was physically tortured and

on refusal of the complainant, she was physically abused. Subsequently, when the dispute could not be sorted out, the complainant brought the matter to the notice of her parents as well as in-laws but to no avail and subsequently on the basis of her complaint the present case was got registered.

Shri P.S. Ahluwalia, learned counsel for the petitioner at the very onset contends that the petitioner had joined the investigation and has sought to contend that the complainant was earlier married to one Sukhwinder Singh on 22 April, 2014 at Hisar and she left the matrimonial home on 07.04.2014 and got lodged a false FIR against the then previous husband and, thereafter, fleecing him of Rs.10,00,000/- compromising the matter and securing a divorce. Submitting that in a same fashion, the present case has been brought about further contending that the father of the girl as per his statement claims to have retired as SDO PWD Hisar when he as per the RTI information collected by the petitioner's family was working as a road inspector and has rather duped the family of the boy alleging that there is neither any allegation of specific entrustment much less any case of breach of trust. It is argued that under the amended definition of Section 375 IPC being grown up such an sexual intercourse does not fall within the definition of rape and even offence under Section 377 IPC becomes doubtful on account of lack of medical evidence. It is argued that much of the allegations regarding gold jewellery and costly gifts do not fall within the terminology of "istridhan" though

which have been returned back are only falling within the scope of gifts submitting that it was a second marriage of both the parties and, therefore, giving huge dowry or lavish marriage is unacceptable and has prayed for grant of anticipatory bail.

Mr. Amrik Narwal, DAG, Haryana on assistance of SI Raj Rani though accepts the that the petitioner has joined the investigation but claims that certain gold articles are yet to be recovered and that there are serious allegations of rape as well as unnatural offence against the petitioner/husband and, therefore, his custodial interrogation is essential.

Going through the submissions, it is the stand of the State counsel that the petitioner has joined the investigation and only certain gold ornaments are to be recovered but could not elaborate the items. The documents placed on the record show that the first marriage of the complainant took place on 22.04.2014 and she left the matrimonial home on 07.04.2014, i.e. after 5 days and thereafter as is detailed in the orders placed on the record of learned District Judge (Family Court) Hisar dated 28.10.2015, the complainant had received Rs.10,00,000/- from the then husband and got the marriage dissolved by mutual consent. The claim of the father that he is an SDO as per the statement made before the police on 25.09.2018 is negated by the seniority list of road inspector placed on the record procured by the petitioner under the Right to Information Act where he is shown to be working as Work Mistri. However, without adverting on that aspect of

the matter, however, claim of the complainant that it was a lavish marriage appears to be highly improbable and unpalausible proposition in view of the economic status of the father of the complainant as borne from the records placed on the file. The order (Annexure P-9) placed on the record shows that co-accused have been allowed anticipatory bail by the lower Court. To the specific query of the Court, the learned State counsel could not bear out any allegations of specific entrustment of the articles of “isthridhan” to the petitioner as well as criminal breach of trust qua him. The articles detailed in the FIR are only falling within the terminology of gifts given to various relations of the husband. There is no cogent evidence to show by any medical evidence any signs of unnatural sex have been performed with the complainant and the medical advice is quite vague and unambiguous. More so, it has now days become a trend in our society to fleece the husband side by levelling shocking allegations which stir the conscience of the Court and the trend of slapping of Sections 376 and 377 IPC.

In the light of what has been detailed and discussed above, together with the fact that culpability, if any, of the petitioner shall be determined at the trial which is not likely to be concluded in the near future and it would be travesty of justice if the petitioner is sent behind the bars. Therefore, in the event of arrest, the petitioner be released on *interim* bail to the satisfaction of Arresting/Investigating Officer. The petitioner shall, however, join the investigation as and

when called for to do so and he shall abide by the conditions as envisaged under Section 438(2) Cr.P.C.

Disposed off.

February 05, 2019
amit rana

(FATEH DEEP SINGH)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No