

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

CRM-M-62187 of 2018.

Decided on:- July 09, 2019.

Dheeraj Kumar.

.....Petitioner.

Versus

State of Punjab.

.....Respondent.

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

Present:- Mr. C.M. Munjal, Advocate for the petitioner.

Mr. Sukhbeer Singh, A.A.G., Punjab.

Ms. Ekakshra Mahajan, Advocate for the 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.84 dated 02.09.2018 under Sections 406, 498-A and 506 IPC registered at Police Station Women, Patiala.

The aforesaid FIR was registered by complainant Hem Lata alleging demand of dowry, beating and misusing of dowry articles. The complainant was married with the petitioner on 24.06.2012, wherein sufficient dowry was given as per the capacity of the parents of the complainant. As per the complainant, 10 tolas gold and a cheque of Rs.2 lakh and Rs.1.5 lakh were handed over to the petitioner as desired by the parents of the petitioner. In addition thereto, some more dowry items like LCD, fridge, sofa, cooler, table, almirah, set of watches, juicer mixer, press, toaster, clothes and crockery were also given in the marriage. Before marriage, Shagun ceremony was held where the petitioner was given a motorcycle of TVS

company along with Rs.51,000/- in cash. Another amount of Rs.1 lakh was spent on other small items which are Streedhan. In the marriage ceremony, parents of the complainant and her relatives jointly spent about Rs.10-11 lakh. Before marriage, the accused were residing in Mandi Gobindgarh, where the complainant also started residing after marriage. Thereafter, the petitioner and his parents after selling their house, shifted to village Chopta near Sirsa. The petitioner remained unemployed for some months and started harassing the complainant mentally and physically due to financial problems and also started demanding money along with other accused (father-in-law and mother-in-law of complainant). They asked the complainant to bring money from her father and, therefore, the mother of the complainant sent Rs.20,000/- in order to fulfil their demand. On 16.04.2013, the complainant gave birth to a son Kushal Joshi at Janta Hospital, Sirsa. Since it was a caesarean delivery, all the expenses of her delivery were borne by the parents of the complainant and no help was extended by the petitioner's family. The petitioner along with other co-accused started harassing the complainant on the pretext that she should insist her parents to get share in the property in the name of the petitioner. Otherwise, they will turn the complainant out from the matrimonial home and will get the marriage of the petitioner solemnised somewhere else in order to get more dowry. The complainant narrated the entire story to her parents, who advised her to stay quiet with the expectation that better sense will prevail upon the petitioner and his family members after some time. The complainant has no real brother, therefore, she did not react. On 20.08.2015, the complainant gave birth to a second child. Unfortunately, the child born

was blind and the accused blamed the complainant for the same that she has delivered a blind child and whatever expenditure of delivery and treatment were borne by her parents. The accused kept on maltreating the complainant after birth of second child and their demand of dowry was further enhanced. Several times she was given beatings by the accused and was not served food whereas after birth of a child, a mother requires proper diet in order to feed her child. Thereafter, she was pressurised to leave the house and to go back to her parental house so that her parents will transfer the property in the name of the petitioner. At several times, the accused threatened to kill the complainant on the plea that the complainant has not been able to get her share in the property in the name of the petitioner. In September, 2017, when the accused were to inaugurate their newly built house, they asked the complainant that she should bring Rs.2 lakh from her mother and on this ground started harassing her. However, when the complainant disclosed this fact of demand of Rs.2 lakh to her mother, she replied that she is not in a position to pay this amount and will not come at the time of inauguration of the house. When this fact was disclosed by the complainant to the petitioner, he started beating her. Thereafter, the behaviour of the petitioner and his family members towards the complainant became very rude. On 29.12.2017, the accused, after beating the complainant turned her out of the house along with her younger son and retained her entire Streedhan and ornaments as well as other items.

Vide order dated 03.04.2019 passed by this Court, the matter was referred to the Mediation and Conciliation Centre of this Court, but no settlement could be arrived at. Again on May 23, 2019, learned counsel for

the petitioner reiterated his stand that the petitioner is considering the issue of settlement. Therefore, while adjourning the case for 09.07.2019, the petitioner was directed to pay Rs.25,000/- to the complainant towards litigation expenses. This amount of Rs.25,000/- has been paid to the complainant.

Learned counsel for the petitioner has argued that no offence under the Sections, as referred in the FIR, is made out against the petitioner. In fact the complainant is a lady of hot temperament and is of quarrelsome nature, who used to humiliate and harass the petitioner on every step and for this reason, the petitioner has already filed a divorce petition, which is pending before the family Court at Sirsa. Right from the very beginning, the complainant wanted the petitioner to stay separate from his parents and even the petitioner started living separately with the complainant at distant places. However, when the petitioner refused, she has got registered the present FIR.

Learned counsel for the petitioner has further contended that the complainant herself has left the matrimonial home and the main reason for the dispute between the parties is mother of the complainant, who always interferes in the day to day life of the petitioner and the complainant. The complainant has never given a serious thought about the future of two minor children borne out of this wedlock more particularly when the younger son is blind and requires more attention. After fighting with the petitioner, she has left the matrimonial home along with blind child. The petitioner is ready to settle the dispute. The complainant has leveled false allegations against the parents of the petitioner, which shows that the very FIR has falsely been registered.

On the other hand, learned counsel for the complainant has argued that the complainant was given torture and humiliation by the petitioner and his family members in order to fulfil the dowry demands. The petitioner has been managing throughout on the pretext of mediation proceedings without any intention to go for real mediation. It is on the basis of the statement of the petitioner that he is ready to go for mediation, the Court below as well as this Court has protected him on interim bail. The petitioner had been enjoying the umbrella of interim protection.

I have heard learned counsel for the parties.

On April 03, 2019, this Court had passed the following order:

“Pursuant to the order dated 06.03.2019 passed by this Court, the petitioner is present in person. Even the complainant is also present in the Court along with the child, who is unfortunately blind, deaf and is unable to walk.

Learned counsel for the petitioner, on instructions from his client who is present in the Court, states that the matter may be referred to the Mediation and Conciliation Centre of this Court as there is some possibility of amicable settlement.

Accordingly, the parties are directed to appear before the Mediation Centre, on 04.04.2019.

For awaiting report, adjourned to 14.05.2019.

Interim order to continue.”

The parties were interacted at different times. One of the son of the parties is blind and handicapped and the complainant had been carrying the son in her lap throughout. She has been attending the Court regularly. She has offered to go with the husband right from the Court, but the petitioner has not accepted this offer. The marriage between the parties was solemnised on

24.06.2012. There are serious allegations of demand of dowry and misappropriation of dowry articles entrusted to the petitioner. At different times, demand of dowry was raised by the petitioner and his family members. The equity does not permit this Court to admit the petitioner on anticipatory bail more particularly when the son of the complainant is handicapped/blind and she has shown her eagerness to go with the petitioner. The repeated submissions of the petitioner that he is ready to amicably settle the matter are nothing but an eye-wash in order to prolong the case.

Therefore, there being specific allegations of demand of dowry, beating, cruelty and harassment, this Court finds that no ground is made out to grant anticipatory bail to the petitioner.

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

It is made clear that the observations made hereinabove shall not be construed as an expression of opinion on the merits of the case. The trial Court shall decide the case without being influenced with these observations in any manner.

July 09, 2019

Yag Dutt

**(HARI PAL VERMA)
JUDGE**

Whether speaking/reasoned: Yes

Whether Reportable: No