

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

CRM-M-2063 of 2020.

Decided on:- January 17, 2020.

Sunaina Mehta.

.....Petitioner.

Versus

State of Haryana and another

.....Respondents.

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

Present:- Mr. Robin Dutt, Advocate
for the petitioner.

HARI PAL VERMA, J. (Oral)

The petitioner has filed this petition under Section 482 Cr.PC for issuance of a direction to the respondent No.1-State to constitute a special investigating team and to order arrest of respondent No.2 in FIR No.9 dated 12.01.2019 under Sections 323, 406 and 498-A IPC registered at Women Police Station, Yamuna Nagar.

Learned counsel for the petitioner has argued that the pre-arrest bail of the respondent No.2 was dismissed by learned Additional Sessions Judge, Yamuna Nagar at Jagadhri on 25.01.2019. Against the said order, respondent No.2 approached this Court seeking anticipatory bail under Section 438 Cr.PC vide **CRM-M-4581 of 2019** titled as **Sunny Sharma Versus State of Haryana and another**. Vide order dated 03.12.2019, this Court had granted anticipatory bail to respondent No.2, however, subject to deposit of Rs.8 lakh before the trial Court. It was also ordered that in case the respondent No.2 fails to deposit the amount, his petition shall be deemed to have been dismissed. However, instead of depositing the said amount, the

respondent No.2 is threatening the petitioner and her family members for dire consequences.

He has further contended that in case the respondent No.2 is not arrested in the case, it will give a bad impression in the society.

I have heard learned counsel for the petitioner.

The argument of learned counsel for the petitioner that in case the respondent No.2-accused is not arrested in the case, it will give a bad impression in the society is totally misconceived.

The instant petition has been filed by the petitioner despite the fact that respondent No.2 has already been granted anticipatory bail by this Court on 03.12.2019 in **CRM-M-4581 of 2019** and the petitioner-complainant was duly represented by her counsel in that petition. For the sake of convenience, the said order is reproduced as under:

“Prayer in the present petition filed under Section 438 of the Code of Criminal Procedure, 1973 is for grant of anticipatory bail to the petitioner in case FIR No.9 dated 12.01.2019 under Sections 498-A, 323, 406 IPC registered at Police Station Women, District Yamuna Nagar.

Vide order dated 31.01.2019, the matter was referred to the Mediation and Conciliation Centre, District Court Complex, Jagadhri. Thereafter, vide order dated 21.02.2019, arrest of the petitioner was stayed so as to allow him to join mediation proceedings. Pursuant thereto, when the matter was taken up for hearing on 26.04.2019, the parties had shown their inclination to stay together and accordingly, the petitioner was directed to visit the house of the complainant at Yamuna Nagar so as to take his wife and daughter along with him to Gurgaon with an expectation that the parties shall stay together peacefully. The

Investigating Officer was also directed to visit the residence of the parties fortnightly. But the dispute continued between the parties and accordingly, vide order dated 27.05.2019, the petitioner was directed to join investigation in the case.

Learned counsel for the petitioner has argued that the petitioner has joined the investigation and the recovery of dowry articles has been got effected.

However, learned State counsel as well as learned counsel for the complainant has argued that though the petitioner has joined the investigation, but recovery of jewellery has yet not been effected from him. As per the complainant, around 24 tola of gold articles are yet to be recovered from the petitioner. Therefore, on account of his outstanding recoveries, the present petition deserves to be dismissed.

I have heard learned counsel for the parties.

Though repeated efforts were made to interact with the parties so that they can settle their dispute amicably, but no such amicable settlement could arrive at.

Learned State counsel as well as learned counsel for the complainant have opposed the bail petition on account of non-recovery of gold articles, however, pursuant to the order dated 27.05.2019, since the petitioner has joined the investigation, this Court is of the view that in order to protect the interest of the parties, at this stage, the present petition may be allowed subject to the condition that the petitioner shall deposit an amount of Rs.8,00,000/- with the trial Court.

Accordingly, the present petition is allowed and the order dated 21.02.2019, whereby the arrest of the petitioner was stayed, is made absolute, subject to deposit of Rs.8,00,000/- with the trial Court within one month from today. This amount shall be subject to the outcome of the litigation pending between the

parties. To be more specific, in case the petitioner is acquitted in the trial, he shall be entitled to claim the aforesaid amount of money, however, in the event of conviction of the petitioner, the entire money will go to the complainant.

However, the petitioner shall join the investigation as and when directed by the investigating agency and shall abide by the terms and conditions laid down under Section 438(2) Cr.P.C.

In case petitioner fails to deposit the above said amount within the stipulated time, the present petition shall be deemed to have been dismissed.

At this stage, counsel for the petitioner, on instructions from the petitioner, states that the petitioner shall hand over the Vaccination Card of the child born out of this wedlock to the complainant on 11.12.2019, when the case under Section 125 CrPC is fixed before the trial Court.”

Therefore, this Court finds that filing of the present petition is nothing but a prayer for cancellation of anticipatory bail granted to respondent No.2 by this Court.

Accordingly, the prayer being made by the petitioner being totally misconceived, the present petition is dismissed with costs of Rs.10,000/- to be deposited by the petitioner with the Bar Association of this Court.

January 17, 2020

Yag Dutt

**(HARI PAL VERMA)
JUDGE**

Whether speaking/reasoned: Yes

Whether Reportable: No