

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

**CRM-M No.15491 of 2020
Date of Decision:17.06.2020**

Ranjit SinghPetitioner

versus

State of PunjabRespondent

CORAM: HON'BLE MR. JUSTICE JAISHREE THAKUR

Present: Mr. Ruhani Chadha, Advocate
for the petitioner.

Mr. Gaurav Dhuriwala, Sr. DAG, Punjab.

Mr. Tajinder Pal Singh, Advocate
for the complainant.

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JAISHREE THAKUR. J (ORAL)

1. This criminal petition has been filed Under section 438 Cr.P.C seeking anticipatory bail in FIR No. 21 dated 13.02.2020 registered with Police Station Nakodar Sadar, District Jalandhar under sections 498A, 377 and 354-B IPC .

2. The learned counsel appearing on behalf of the petitioner contends that the allegations as set out in FIR are false, with the intention of causing harassment to the petitioner and his family members. It is submitted that the marriage was solemnized on 27.1.2019 and after that the couple resided together happily. It is contended that the marriage was a love marriage, but after the period of one month the behaviour of the complainant changed drastically and she insisted on living separately from the joint family. She eventually left her matrimonial home of her own

accord and even left a note to that effect. It is stated that the petitioner filed an application under Section 9 of the Hindu Marriage Act on 10.9.2019 for restitution of conjugal rights to which a reply has been filed. In the said reply filed, there is no mention of any offence under Section 377 IPC as claimed in the FIR, which has been registered after the filing of the reply on 13.2.2020. It is argued that the addition of Section 377 IPC in the FIR is not supported by any medical report. The counsel for the petitioner relies upon a judgment rendered by the Bombay High Court in Criminal Anticipatory Bail Application No. 415 of 2020 titled as **'Mangesh Arjun Bhosle Vs The State Of Maharashtra'** to the effect that in case there are allegations of 377 IPC in an FIR, without any medical to support the same, the Courts should normally allow Bail.

3. Per contra, the both counsel for the State and the complainant submit that the FIR is explicit in terms of an offence having been committed under Section 377 IPC and harassment being meted out to the complainant. It is submitted that the complainant had been subjected to unnatural sex and torture, which resulted in her leaving her matrimonial home. However, she did not take the plea of an offence under section 377 IPC in the reply filed to the petition under Section 9 of the HMA as she was ready to go back with her husband and rehabilitate in her matrimonial home. But it is the petitioner who refused to take her back. It is also pointed out that initially the petitioner had in fact exploited the complainant on the pretext of marriage, however afterwards refused to get married. He was blackmailing her with the threat of uploading videos made stealthily. A complaint had been lodged with the police station in this regard as far back as 20.8.2018. During the course of the enquiry a compromise was effected between the

parties and the petitioner agreed to marry the complainant in January 2019. As a result of the compromise, the complainant suffered a statement that she did not want to pursue the case and consequently the complaint was consigned. As the harassment continued after marriage, and the complainant was subjected to unnatural sex she was forced to leave her matrimonial home and filed complaint before the police on 2.9.2019/3.9.2019 which was subsequently again endorsed on 26.11.2019. It is stated that in inquiry the petitioner and his family were asked to come before the police, but they failed to do so. Even summons issued were not accepted which led to the registration of the FIR. It is stated that the complaint was filed even before the application under Section 9 of the Hindu Marriage Act had been instituted.

4. I have heard the counsel for the petitioner, as well as the counsels for and the respondent-State and complainant and with their assistance also raised a copy of the complaints filed in 2018 the statement given by the complainant that she did not want to pursue the original complaint filed and order by which the police filed the complaint dated 20.08.2018.

5. The grant of bail is the discretion of the court, which has to be exercised with great caution. At the time of deciding the application, the Court should look at the prima facie material available and should only go into the question of a prima facie case established for granting bail.

6. In the instant case the allegation as set out in the FIR are clear and unambiguous to the effect that the petitioner developed physical relationship with the complainant on the pretext of getting married, but then failed to do so. On a complaint being filed, he compromised with the complainant and agreed to marry her. There are allegations of an offence under section 377 IPC

in the FIR, which allegations are of a serious nature, even though not supported by a medical. Apart from the said allegations, there are also allegations of harassment and torture. Counsel for the state informs that the medical was inconclusive since the offence complained of had taken place several months ago.

7. The judgment relied upon by the counsel for the complaint is distinguishable and not applicable to the facts of the present case. In the Bombay High Court Judgment, it is noticed that in the complaint there were no allegations of the complainant being subjected to unnatural sex, whereas in the complaint filed in the instant case on 2.9.2019 such allegations are already there. In fact, the complaint was filed even prior to the petition under section 9 of the Hindu Marriage Act 1956.

8. Consequently, the instant petition is dismissed.

(JAISHREE THAKUR)
JUDGE

June 17, 2020
Pankaj*

Whether reasoned/speaking	Yes/No
Whether reportable	Yes/No