

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

**CRM No.15201 of 2020, CRM-15859-2020 and
CRM-M-16317-2020 (O&M)**
DATE OF DECISION: 04.08.2020

Mohan Singh and another

.....Petitioners

versus

State of Punjab and another

.....Respondents

CORAM:- HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Nippun Sharma, Advocate for the petitioners

Ms. Bhavna Gupta, DAG, Punjab
for respondent No.1

Pandit Vinod Sharma, Advocate for respondent
No.2/complainant

..

ALKA SARIN, J.:

CRM-15859-2020:

By way of the present application, the petitioner has sought preponing of the date of the main case from 23.09.2020 to some early date.

The main case was listed on 24.06.2020. On the said date a detailed order was passed wherein noticing the contention of learned counsel for the petitioner that one of the co-accused had been granted the concession of pre-arrest bail by a Co-ordinate Bench vide order dated 17.06.2020 in CRM-M No.15442 of 2020, notice of motion was issued. Learned counsel for the complainant Pt. Vinod Sharma, Advocate put in appearance on the said date and had submitted that the co-accused did not bring to the notice of the Court the correct facts at

the time of granting anticipatory bail and, therefore, he sought some time to file a detailed affidavit bringing on record the complete facts. The matter was thereafter adjourned to 03.07.2020. On 03.07.2020, inadvertently, the presence of Pt. Vinod Sharma, Advocate, had been marked for the petitioner and the case was adjourned, to be heard along with CRM-M No.1544 of 2020 on the date already fixed therein i.e. 23.09.2020. It may be mentioned here that in the order dated 03.07.2020, inadvertently, CRM-M No.1544 of 2020 was mentioned instead of CRM-M No.15442 of 2020.

In the present application, learned counsel for the petitioner seeks preponement of the main case as the petitioner has not been granted any interim relief. He also states that he does not wish to rely on the order (Annexure P-3) passed in the case of the co-accused and requests that his matter be heard separately.

In view of the above, CRM is allowed. Main case is taken on board and heard.

CRM No.15201 of 2020:

This is an application for placing on record the affidavit on behalf of respondent No.2, the complainant.

Application is allowed and affidavit taken on record subject to all just exceptions.

CRM-M-16317-2020:

This is a petition under Section 438 Code of Criminal Procedure, 1973 for grant of anticipatory bail to the petitioners in FIR No.0043 dated 17.03.2020 registered under Sections 406, 498-A of the Indian Penal Code, 1860 read with Section 3(1)(r) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for

short “the SC/ST Act”) registered at Police Station Goraya, Jalandhar, District Jalandhar (Punjab).

The allegations in the FIR are that the family of the complainant, Morrina Kumari, had emigrated to UK since long and that the complainant, Morrina Kumari, was born and brought up in UK. When she grew up, her parents desired that she marries a boy from India and in this regard they came in contact with one Smt. Kamaljit Kaur who is also a resident of UK. The said Kamaljit Kaur told the parents of the complainant that her relatives namely, Mohan Singh son of Harbans Singh and his wife Jaswinder Kaur, have a son by the name of Sarabjit Singh and that he would be a good match for their daughter. On her assurance, the marriage was performed between the complainant Morrina Kumari and Sarabjit Singh on 23.02.2017 according to Sikh rites and rituals in Gurudwara Sahib at village Manawali, Tehsil Phagwara. It has further been alleged in the FIR that the complainant's parents had given handsome dowry as per the demands of her in-laws and now the *Istri Dhan* was lying in possession of the accused. It is further alleged in the FIR that the complainant belonged to Ravidass Community, whereas, Sarabjit belonged to Jat Community which fact was clearly disclosed to the accused. The further allegation in the FIR is that right from the beginning the behaviour of the accused was abnormal and they were not happy with the dowry given at the time of marriage. Thereafter, the in-laws of the complainant started taunting, insulting and maltreating her for having brought less dowry and that too of inferior quality. She was even given taunts regarding her caste and her husband had stated that he had married the complainant only with an intent to settle in UK. The further allegations in the FIR are that Sarabjit Singh went to UK after 2½ years of marriage and that on reaching UK he was a totally changed person.

Sarabjit Singh started residing with his mother's sister, who was also living in UK, and despite the best efforts by the complainant, Sarabjit Singh did not agree to live with her. In the FIR, the further allegation is that all the accused had misappropriated the *Istri Dhan* of the complainant and further demanded money in England and were torturing and harassing her. On the basis of the allegations, the FIR was registered under Sections 406, 498A IPC and Section 3(1)(r) of the SC/ST Act.

Learned counsel for the petitioners has contended that totally false allegations have been levelled against the petitioners and they have been falsely implicated in the case. He has further relied upon ***Dr. Subhash Kashinath Mahajan v. The State of Maharashtra and another, 2018 (2) RCR (Criminal) 552 (SC)*** to contend that there is no absolute bar to the grant of anticipatory bail if no *prima facie* case is made out under Section 18 of the SC/ST Act.

Per contra, learned counsel for the complainant has contended that not only the complainant was harassed and tortured because of bringing less dowry but also casteist remarks were made by the accused. He has further referred to affidavit filed on behalf of the complainant to contend that the co-accused in CRM-M No.15442 of 2020 has made a blatantly false statement in para-11 of the petition wherein she had stated that no other case was pending against the petitioner therein. It has further been contended by the learned counsel for the complainant that huge amount of money was spent on dowry/*Istri Dhan*/*Shaguns*, etc. which were given to the husband of the complainant and his relatives as per their demands and which are still in their possession.

Ms. Bhavna Gupta, DAG, Punjab has stated, on instructions from ASI-Sukhwinder Kaur, that an enquiry was pending before the DSP. The said fact is, however, controverted by the learned counsel for the complainant who states that the complaint was enquired into by Sarabjit Rai, Deputy Superintendent of Police, Special Branch, Jalandhar (Rural) and it was on the basis of this enquiry running into 67 pages that the FIR was lodged.

The counsel for the petitioner had on 24.06.2020 specifically relied on the order dated 17.06.2020 (Annexure P-3) passed in CRM-M No.15442 of 2020 i.e. the case of the co-accused (Manjeet Kaur) granting her anticipatory bail. Since the counsel for the complainant had brought to the notice of this Court that certain material facts had been concealed by the petitioner in CRM-M No.15442 of 2020, hence, the matter was adjourned to be heard with CRM-M-15442 of 2020. Due to a typographical mistake in the order dated 03.07.2020 instead of CRM-M-15442 of 2020 it was mentioned CRM.M No.1544 of 2020. The counsel for the petitioners, however, today stated that he did not wish to rely on the order passed in the case of the co-accused and hence wanted that his matter be heard separately and, thus, the matter was preponed and taken on board for hearing.

The FIR in the present case has been registered under Sections 406, 498A IPC and Section 3(1)(r) of the SC/ST Act. There are clear allegations spelled out in the FIR regarding demand of dowry and misappropriating the Istri-Dhan of the complainant as also allegations constituting offences under the SC/ST Act. Details of the casteist remarks have been given in the FIR as also reproduced in the order dated 03.06.2020 (Annexure P-2) passed by the Additional Sessions Judge, Jalandhar. In view of the same, the reliance of counsel for the

petitioners on the judgment in *Dr. Subhash Kashinath Mahajan (supra)* is wholly misplaced.

In view of the allegations in the FIR and the bar created by Sections 18 and 18-A of the SC/ST Act and without commenting on the merits of the case, I do not find this to be a fit case for grant of anticipatory bail. The petition is, hence, dismissed.

**(ALKA SARIN)
JUDGE**

04.08.2020
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<u>NOTE:</u> Whether speaking/non-speaking: Speaking Whether reportable: YES/NO
