

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

(Proceedings conducted through video Conference)

CRM-M-18894-2020 (O&M)

Date of decision: 17.07.2020

Sohan Lal Sahu and ors.

... Petitioners

Versus

State of Haryana and anr.

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Pratham Sethi, Advocate for the petitioners.

Mr. Apoorv Garg, DAG, Haryana.

REKHA MITTAL, J. (Oral)

Sohan Lal Sahu, Ram Kali wife of Sohan Lal and Gyanender Kumar son of Sohan Lal Sahu pray for grant of transitory anticipatory bail to the petitioners in FIR No.321 dated 27.06.2020 registered at Police Station Kotwali Datiya, District Datiya, Madhya Pradesh (Annexure P1) for offence punishable under Sections 294, 323, 498-A, 506 IPC read with Section 34 IPC and Section 3/4 of the Dowry Prohibition Act, 1961.

Counsel for the petitioners would argue that instant FIR has been lodged at the behest of Rachna wife of petitioner Gyanender Kumar. He would pray for grant of transitory anticipatory bail to the petitioners to enable them to file an appropriate application before a competent Court in the State of Madhya Pradesh for grant of bail in anticipation of arrest without suffering police/judicial custody. Counsel would argue that the Additional Sessions Judge, Sonapat rejected plea of the petitioners by relying upon judgments referred to in para 6 of the order dated 08.07.2020 (Annexure P2) passed by the said Court. It is argued that a Full Bench of Calcutta High Court on a detailed consideration of the provisions of Section 438 of the Criminal Procedure Code while deciding a reference made to the said Court and after taking into consideration a plethora of judgments including the judgment by Full Bench of Patna High Court in **Syed Zafrul Hassan and anr. Vs. State, 1986 Cr.LJ 605**, has held in the concluding lines of Para 24, reads thus:-

xx The exercise of Jurisdiction of anticipatory bail by any other Court namely the High Court or the Court of Sessions

beyond the local limits of the Jurisdiction is limited to the extent of consideration of a bail for the transitional period but it has no jurisdiction to transgress into the limits of the local Jurisdiction of the Court within which offence is alleged to have been committed

Counsel would pray that in view of pandemic condition on account of Covid-19 it was not convenient for the petitioners to travel to State of Madhya Pradesh without hassle and as such, they may be allowed protection against their arrest limited to the extent of transition period.

Counsel representing State of Haryana is not in a position to dispute the observations made by the Full Bench of Calcutta High Court, highlighted by counsel for the petitioners.

Perusal of allegations raised in FIR lodged at the behest of Ms. Rachna makes it evident that criminal proceedings are result of marital dis-harmony, alleged to be the result of demand for dowry at the behest of petitioners, parents in law and husband of Rachna. The marriage of petitioner No.3 with Rachna was performed on 30.11.2019 and as such, the couple could not maintain cordial relations even for a short period. In such like cases the first endeavor of the Court is to get the dispute settled by way of an amicable settlement. The first effort of the Court would be to examine if there is possibility of resumption of cohabitation of young couple. In case either of the petitioners is taken in custody, possibility of resuming of cohabitation becomes remote though it may not be impossible. Taking into consideration the nature of allegations against the petitioners coupled with the observations made by the Full Bench of Calcutta High Court and judgment of Hon'ble the Supreme Court in **Salauddin Abdulsamad Shaikh Vs the State Of Maharashtra, 1996(1) SCC 667**, interest of justice commands that the petitioners are allowed protection of bail in anticipation of arrest for a limited period requiring them to approach the appropriate Court in the meantime whereupon it will be for that Court to deal with the matter in accordance with law. Accordingly, the petitioners are protected against their being taken in custody in the aforesaid FIR for a period of 15 days. In case the petitioners are arrested within a period of 15 days, they shall be released on bail subject to satisfaction of the arresting agency. It is made clear that on expiry of period of 15 days, this order will lose its force and law will take its own course.

Nothing stated hereinbefore shall be construed as an expression of opinion qua merits of the case.

Disposed of.

17.07.2020
ashok

(REKHA MITTAL)
JUDGE

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