

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Decided on: 26.11.2020

1. CRM-M No.24183 of 2020 (O&M)

Padam Singh Yadav
Versus
State of Haryana
....Petitioner
....Respondent

2. CRM-M No.2172 of 2020 (O&M)

Hari Singh and another
Versus
State of Haryana
....Petitioners
....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Dr. Anmol Rattan Sidhu, Sr. Advocate
with Mr. Pratham Sethi, Advocate
for the petitioner (in CRM-M-24183-2020)

Mr. Vinod S. Bhardwaj, Advocate
for the petitioner (in CRM-M-2172-2020)

Mr. Deepak Balyan, Addl. A.G., Haryana.

Mr. B.S. Rana, Sr. Advocate
with Mr. Divya Bajaj, Advocate
for the complainant.

Mr. Satya Pal Jain, Additional Solicitor General of India
with Mr. Dheeraj Jain, Sr. Panel Counsel
for Union of India.

ARVIND SINGH SANGWAN, J.

Prayer in these petitions is for grant of anticipatory bail to
the petitioners namely Padam Singh Yadav, Hari Singh and Savitri in

FIR No.526 dated 11.11.2019, registered under Sections 323, 34, 377, 406, 498-A, 506 of the Indian Penal Code, 1860 (in short 'IPC') at Police Station Bilaspur, District Gurugram.

The petitioners namely Hari Singh and Savitri in CRM-M No.2172 of 2020 are the parents-in-law of the complainant – Ansuiya Yadav whereas the petitioner – Padam Singh Yadav in CRM-M No.2172 of 2020, is her husband.

Brief facts of the case as per the FIR are that the marriage of the petitioner – Padam Singh Yadav was solemnized with the complainant Ansuiya Yadav on 19.02.2011 and the girl side had given a cash of Rs.51 lacs as demanded by the accused persons and another amount of Rs.8 lacs was given on account of a Honda City car, which was purchased by the petitioner – Padam Singh Yadav, 15 days prior to the date of marriage. It is further stated in the FIR that sufficient dowry articles including costly gifts, gold ornaments were given, beyond the capacity from the girl's side. After the marriage, the complainant shifted to her matrimonial home in Sector 22-B, near Anand Farms, Gurugram and was shocked to find that all the 03 petitioners started taunting her for not bringing sufficient dowry as per their status. However, the complainant kept silent with a hope that things will improve with the passage of time. Out of the said wedlock, one boy namely Himaksh Yadav, was born on 16.11.2011 and later on, in the year 2012, the petitioner – Padam Singh Yadav shifted to London for a company project leaving the complainant and the child in India. The other

CASE HEARD THROUGH VIDEO CONFERENCING

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accused namely Suman and Sushma, sisters-in-law of the complainant started visiting her matrimonial house frequently and forced their parents to terminate the service of the maid servants so that the complainant should do all the household work including preparation of food, cleaning and dusting of house, cleaning of utensils and bathrooms, etc. The complainant was taunted by calling her as a servant who should serve the accused persons. It is further stated in the FIR that the complainant and her child were deprived of the basic amenities and they were taunted by saying that if she need anything, she should bring money from her parents. In April, 2013, Padam Singh Yadav came back to India and his behavior became more cruel and he started beating and abusing the complainant without any rhyme and reason. Hari Singh and Savitri used to provoke him to give a torturous treatment to the complainant and her minor son, so as to coerced her to bring more dowry. The amount given at the time of the marriage for purchasing a plot and building a house for the complainant was mis-utilized and misappropriated by them. The complainant came to know that the petitioner – Padam Singh Yadav is having an extra-marital affair with a lady namely Deepali Salwan, who was working with him in the same company i.e. Tata Consultancy Services. On 30.12.2013, the accused – Padam Singh Yadav gave severe beatings to the complainant by kicking on her ribs, stomach and back in order to keep her mouth shut regarding his relationship with Deepali Salwan. The complainant became unconscious and managed to go to Pushpanjali Hospital, Gurugram to

get herself treated. The copy of the medical record was attached with the complaint, forming base of FIR.

Later on, the complainant informed her parents about the incident and the extra-marital relationship of accused – Padam Singh Yadav. A meeting was convened in which the petitioner – Padam Singh Yadav, assured that he will not maintain any relationship with Deepali Salwan and will not give any beating or abuse the complainant. After some time, again the accused started behaving in a same manner and to commit excessive cruelty, Padam Singh Yadav started doing unnatural sex with her.

On 18.01.2014, again Padam Singh Yadav gave beatings to the victim on the pretext that she should not raise any objection regarding his relationship with Deepali Salwan and even tried to strangulate her by pressing a pillow on her face.

On 09.01.2014, having unbearable pain and an eye injury, on account of the beatings given by the accused, the complainant was taken to General Hospital, Gurugram and then, got treatment from a private Eye Institute. The treatment records of the Government Hospital and the private hospital were attached with the complaint.

The parents of the complainant and her brother kept on pacifying the accused persons to mend their ways and in the meantime, the complainant was forced to live at her parental house for a period of about 1½ years.

On 02.06.2015, the brother and sister-in-law of the

complainant brought her back to her matrimonial home and the petitioners – Hari Singh and Savitri refused to allow her on the pretext that Padam Singh Yadav is still abroad whereas he was in India and on repeated requests, she was allowed to enter the house. After sometime, on 14.07.2016 again, all the accused persons caused beatings to the complainant/victim. The complainant called her brother – Aman and informed about the incident and she was again taken to Government Hospital, Gurugram where the MLR was prepared by the doctors, however, on the asking of the complainant, no police case was registered as she wanted to save her matrimonial life.

On 15.03.2017, Padam Singh Yadav again, went to London without informing the complainant and he would never attend the calls made by the complainant. In August, 2018, the petitioners – Hari Singh and Savitri informed the complainant that they are selling the house as it is a small house and they will buy a big house and all of them shifted to a rented accommodation in Sector 33, Gurugram where they stayed till October, 2018. On a day when the complainant was out for some work, the other accused persons vacated the rented accommodation without informing the complainant and the complainant managed to live in the said house till March, 2019 with a hope that the petitioner – Padam Singh Yadav will join her. It is also stated in the FIR that the sisters of Padam Singh Yadav started acquiring the property in a calculated and planned manner so that he may run away from the country and finding that the complainant, in a deep rooted conspiracy

has been cheated, harassed and subjected to cruelty for which the accused persons have extorted lacs of rupees from the family of the complainant, the present FIR was registered.

On 20.01.2020, while issuing notice of motion, the arrest of the petitioners – Hari Singh and Savitri was stayed and later on, on 16.09.2020, on a representation made by the learned senior counsel for the petitioner – Padam Singh Yadav that the petitioner is ready to settle the issue with the complainant on some amicable terms, the arrest of the petitioner – Padam Singh Yadav was also stayed. On 16.09.2020, it was submitted before the Court that despite interim protection, the petitioner – Padam Singh Yadav, on return from abroad, was detained by the Immigration Authority on 02.09.2020 for about 03 hours on the ground that he is an accused in the present FIR.

The learned Solicitor General of India was directed to take instructions by filing a response in this regard.

Before referring to the arguments on merits, it would be relevant to refer to the reply filed by the Foreigners Regional Registration Officer, Amritsar, in response to the Court query. It is argued that a ‘Look Out Circular’ with the subject “Detain and Handover intercepted person to Local Police and inform Originator” was issued against the petitioner – Padam Singh Yadav on 08.07.2020 at the behest of Deputy Commissioner of Police, Gurugram and therefore, the petitioner was apprehended.

It is further stated in the said affidavit that the Bureau of

Immigration, Ministry of Home Affairs is the custodian of Look Out Circulars and they followed the direction of the police.

In view of the same, so far this issue is concerned, no further action is called for.

Learned counsel for the petitioners – Hari Singh and Savitri, has argued that they are senior citizens and are suffering multiple health problems and being the father-in-law and mother-in-law of the complainant, they have no direct role in the matrimonial life of the complainant. It is further argued that the FIR has been registered at a highly belated stage and the allegations of demand of dowry, maltreatment or cruelty are false.

Learned senior counsel for the petitioners has further submitted that the husband of the complainant i.e. the son of the petitioner was working in London since 2017 and therefore, in the intervening period, there cannot be any allegation against the petitioners. It is further stated that both the petitioners have joined the investigation.

Learned senior counsel for the petitioner – Padam Singh Yadav, has argued that the FIR has been registered after about 08 years of marriage, which was solemnized on 19.02.2011 and in fact, the complainant has broken the lock of Almirah and has already taken the dowry articles for which a complaint was given. It is further submitted that the allegation of giving Rs.51 lacs in cash and Rs.8 lacs for car are highly exaggerated.

It is also submitted that the petitioner has joined a lengthy investigation in which number of questions were put to the petitioner to which he has given the reply and therefore, the anticipatory bail of the petitioners be confirmed.

In reply, counsel for the State assisted by learned senior counsel for the complainant has opposed the prayer for bail.

Counsel for the State, on the basis of the affidavit of the Assistant Commissioner of Police, Pataudi has submitted that the petitioners have not given their permanent address to the investigating agency and the address mentioned in both these petitions is of village Nayagaon. During the investigation, it was found that the said house is in a dilapidated condition and no one is residing there. The photographs of the house are also attached as Annexure R-1. It is further stated in the affidavit that on the basis of the marriage photographs and videos (Annexures R-1/2), an amount of Rs.51 lacs in cash and another amount of Rs.8 lacs for purchase of a car was given which is to be recovered from the petitioners. It is further stated that though, the petitioner – Padam Singh Yadav though, has joined the investigation and was given a questionnaire however, he exhibited reluctant attitude and evaded the replies. Counsel for the State has relied upon the questionnaire (Annexures R1/3 and R1/4), to submit that the petitioner – Padam Singh Yadav has not co-operated in the investigation.

Since the petitioner – Padam Singh Yadav, disputed the photographs, videos of the various ceremonies of the wedding and gave

false information to the police regarding his address, Sections 420 and 120-B IPC were also added during the investigation.

It is further stated in the affidavit that the complainant got herself treated in OPD in the hospital on 30.12.2012, 09.01.2014, 10.01.2014 and 14.07.2016. The medical record and photographs of the complainant showing the injuries sustained by her especially on eye, are also placed on record as Annexure R-1/5.

It is further stated that the petitioner – Hari Singh has even given an undertaking before Palam Vihar, Police Station Gurugram (Annexure R1/6) regarding beatings given by the petitioner – Padam Singh Yadav to his wife Ansuiya wherein he undertook that in future neither she will be given any beatings nor will be humiliated. It is stated that despite this undertaking, the petitioner – Padam Singh Yadav did not mend his ways. It is also stated that the petitioner – Padam Singh Yadav is also involved in one more FIR No.374 dated 09.09.2020 registered under Sections 323, 506, 195-A IPC as he has even extended threats to the complainant Ansuiya that she will be eliminated if she pursue her legal remedy.

It is also stated that the petitioner has not deposited his passport with the Investigation Officer. Counsel for the State on the basis of the enquiry and investigation, has submitted that it is established that a huge amount of cash and dowry articles were entrusted to the petitioners at the time of marriage and the petitioners by giving false addresses are trying to mislead the police and the

petitioner – Padam Singh Yadav has evaded all the relevant questions put to him during the investigation.

Counsel for the State has referred to certain questions. In reply to question No.10, regarding providing monetary help to his wife while leaving for foreign country it was stated that since she was staying with his parents (Hari Singh and Savitri), they were to take care of her basic needs and thus, admitted that he has not provided any financial help to his wife and minor son. Even in response to question No.13 regarding spending huge amount on marriage, the petitioner – Padam Singh Yadav replied that he is not aware of the expenditure. Further with regard to certain questions while the Investigation Officer put the photographs and videos of the marriage, the petitioner – Padam Singh Yadav replied that the same are photoshopped and misrepresent the facts. With regard to returning of dowry articles, in reply to question No.25, the petitioner – Padam Singh Yadav again stated that no dowry articles were given. Further regarding his permanent address, the petitioner – Padam Singh Yadav replied to question No.26 that his permanent address is Nayagaon, Tehsil Kosli, District Rewari and his present address is Mr. Jasbir Deswal, 8, Farm Houses, 100 ft. Road, Ghitorni, New Delhi-30, where he is staying with his parents.

As noticed above, it is the stand of the State that no one was found living at both the addresses and the petitioners have given a fake address. In response to question No.30, whether the petitioner contacted his wife Ansuiya, after going to foreign country, the

petitioner – Padam Singh Yadav replied that there was no two way communication as he was in touch with his family i.e. the parents. Similarly, in certain questions regarding the sale of the property and the details of the property owned by the petitioner – Padam Singh Yadav, he failed to give any reply.

With regard to question No.40 regarding the medico legal examination of the complainant/wife – Ansuiya, the petitioner – Padam Singh Yadav denied and on a similar another question, he even stated that the medical records are not correct.

With regard to the allegation of his extra-marital affair with a lady named Deepali Salwan, the petitioner – Padam Singh Yadav admitted his acquaintance with her, in response to question No.62.

Learned senior counsel appearing for the complainant has additionally argued that the behaviour of the petitioner – Padam Singh Yadav right from the day one was cruel towards the complainant and there was a consistent demand of dowry. Learned senior counsel for the complainant has also relied upon various medical records of the complainant as well as her photographs, showing the injuries caused to her and submit that in order to save the matrimonial life, her family did not register any complaint, though, the petitioner – Hari Singh has given an undertaking before the police that the petitioner – Padam Singh Yadav will mend his ways.

Learned senior counsel for the complainant has next argued that the petitioner made a false representation even before this

Court at the time of issuance of notice of motion as the Court has issued notice on the contention that the petitioner – Padam Singh Yadav is ready to settle the issue with the complainant. However, instead of doing so, the petitioner – Padam Singh Yadav has now filed a petition for divorce under Section 13 of the Hindu Marriage Act as well as a petition for seeking custody of the minor child under the Guardian and Wards Act, before the Courts at Gurugram which shows his conduct that under the garb of interim order, he just want to seek divorce from the complainant as he is having extra-marital affair with a lady.

Learned senior counsel for the complainant has also submitted that even in both these petitions, the petitioner – Padam Singh Yadav has again given the same address which was found to be wrong as per the verification conducted by ASI Mohd. Zahed.

Learned senior counsel for the complainant has, thus, argued that right from the date of marriage, the behaviour of the petitioner – Padam Singh Yadav towards the complainant was very cruel, violent and she was repeatedly given beatings and misbehaved. Even after the interim order was granted to the petitioner – Padam Singh Yadav, he again extended threats to the complainant/wife – Ansuiya, for which another FIR has been registered against him.

Learned senior counsel for the petitioner has also submitted that recovery of Rs.51 lacs given in cash and Rs.8 lacs given for purchase of the car, is yet to be effected and the complainant and her minor son, are living at the mercy of her parents.

After hearing the counsel for the parties, considering that there are direct allegations against the petitioners – Hari Singh and Savitri i.e. the father-in-law and mother-in-law and the petitioner – Padam Singh Yadav. The petitioner – Hari Singh, being the head of family had sold the house with an assurance that he will purchase another house for the complainant out of the amount given by her parents at the time of marriage, but no such commitment was honoured and that the petitioner – Hari Singh had even given an undertaking before the police that his son Padam Singh Yadav will not give beatings to the complainant and he will also not misbehave with her, I find that it is not a case where it can be held that the petitioner – Hari Singh has no role. So far the allegation against the petitioner – Savitri are there, she is a household lady.

The allegations against the petitioner – Padam Singh Yadav, are serious in nature. Firstly, the petitioner – Padam Singh Yadav and his father – Hari Singh, were entrusted with Rs.51 lacs in cash and Rs.8 lacs for car, which has not been returned by them. Secondly, the petitioner – Hari Singh told the complainant that they are selling the house in order to purchase a bigger house and when they shifted to a rented accommodation, even they stealthily vacated the rented accommodation leaving the complainant at the mercy of the God. There are direct allegations against the petitioner – Padam Singh Yadav of causing beatings to his wife – Ansuuya, which is supported by medical evidence.

Even the conduct of the petitioner – Padam Singh Yadav as per the questionnaire put to him by the Investigation Officer, makes it clear that at no point of time, he had been providing financial assistance to his wife and son as he has stated that his parents were looking after her. He has given evasive replies regarding all the relevant questions regarding his permanent address about the property owned by him and his father and denying the photographs and videos of the marriage showing that huge cash was entrusted to him and his father and even doubting the medical record of Government Hospital demonstrates his intentions and therefore, he is not entitled to concession of anticipatory bail.

It is also worth noticing that notice of motion in the present case was issued on a representation made that the petitioner – Padam Singh Yadav is ready to settle the dispute with the complainant, however, no efforts were made and rather a divorce petition and a petition for seeking custody of minor child under the Guardian and Wards Act, is filed when he was under interim protection. The conduct of the petitioner in extending threats to the complainant/wife – Ansuiya, during interim bail, which resulted into registration of another FIR against him also makes him dis-entitle for anticipatory bail.

In view of the above, despite the serious allegations against the petitioner – Hari Singh, considering his age, health condition and on account of COVID-19 situation, the petition i.e. CRM-M No.2172 of 2020 is allowed and the anticipatory bail granted

to the petitioners – Hari Singh and Savitri vide order dated 20.01.2020, is made absolute.

However, the anticipatory bail granted to the petitioner – Padam Singh Yadav in petition i.e. CRM-M No.24183 of 2020, is dismissed.

(ARVIND SINGH SANGWAN)
JUDGE

26.11.2020

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