

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

Criminal Misc. No.M-33263 of 2019

Date of Decision: 12.02.2020

Nikhil Gupta

...Petitioner (s)

Versus

State of Punjab & another

...Respondent(s)

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

Present:- Mr. Pawan Kumar, Sr. Advocate with
Mr. Surya Kumar, Advocate
for the petitioner.

Ms. Ruchika Sabharwal, AAG, Punjab.

Mr. S.S. Rangi, Advocate
for respondent no.2.

HARI PAL VERMA, J. (Oral)

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.0023 dated 19.07.2019 under Sections 498-A IPC and 406 IPC (added subsequently) registered at Police Station Women SAS Nagar, Mohali.

The aforesaid FIR was registered at the behest of the complainant – Priya, whose marriage was solemnized with the petitioner on 13.11.2017. As per the FIR, the family of the complainant spent

Rs.4,00,000/- on Roka ceremony whereas more than Rs.20,00,000/- was spent at the time of marriage. The parents of the complainant had given sufficient dowry articles including gold ornaments at the time of marriage, as detailed in the FIR. However, after the marriage, the complainant came to know that the petitioner was having an affair with an employee of his own IT firm. When the complainant object to it, the petitioner promised that he will not repeat it again. It caused mental harassment to the complainant.

Vide order dated 10.09.2019, the matter was referred to the Mediation and Conciliation Centre of this Court and the parties were directed to appear before the mediator. It has been reported by the mediator that despite best efforts, the parties could not reach at an amicable settlement. In these circumstances, the case has once again been listed before this Court.

Vide order dated 29.10.2019, while adjourning the case for today, the petitioner was directed to join investigation.

Learned Senior Counsel appearing on behalf of the petitioner has argued that apart from the fact that offence under Section 406 IPC has been added at a later stage, no recovery is required to be effected from the petitioner, as while staying with the petitioner, the complainant has taken away the jewellery. She has left the company of the petitioner in October, 2018 and thereafter, she has stayed with him from 17.02.2019 to 09.05.2019.

Learned counsel for the complainant has argued that all the jewellery articles have not been recovered in the case. Moreover, the

conduct of the petitioner is such that he does not deserve the relief of anticipatory bail, as on 17.02.2019, when the grandmother of the petitioner had expired, the complainant had joined the company of the petitioner and stayed with him till 09.05.2019, on which date, the petitioner left the company of the complainant. On 11.05.2019, the complainant submitted a complaint to the SSP, but on 13.05.2019, she received a notice in the divorce petition filed by the petitioner. In this manner, despite having filed a divorce petition before the Court, the petitioner has established physical relations with the complainant, which is not less than commission of rape upon the complainant, as he has conveniently concealed this fact from the complainant.

On the other hand, learned State counsel does not dispute the fact that the petitioner has joined the investigation. She has submitted that apart from other allegations, the complainant has submitted bills for 11 tola of gold jewellery given in the marriage and out of this, 6 tola of gold jewellery has been recovered from the petitioner and 5 tola of gold jewellery is yet required to be recovered in the case.

I have heard learned counsel for the parties.

The matter was sent to the Mediation and Conciliation Centre of this Court, but it could not be resolved. Even this Court has interacted with the parties at sufficient length, but there is remote possibility of any settlement. Considering the fact that the petitioner has joined investigation and 6 tola of gold jewellery has been recovered from him, the present petition is allowed and the interim order dated 29.10.2019 is made absolute, however, that will be subject to the condition that the petitioner

deposits a sum of Rs.2,50,000/- with the trial Court in the shape of FDR of a Nationalized bank towards 5 tola of gold jewellery, which is yet to be recovered in the case. In case the petitioner is convicted in the case the aforesaid FDR of Rs.2,50,000/- shall be disbursed to the complainant and in the event of acquittal of the petitioner, the said amount shall be disbursed to the petitioner.

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.

It is also made clear that since the present petition is confined to offence under Sections 498A IPC and 406 IPC (added later on), this Court has not made any observation as regards the allegation of rape having been committed upon the complainant.

February 12, 2019
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No