

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

CRM-M-41239 of 2019.

Decided on:- January 21, 2020.

Prashant Kumar Sharma.

.....Petitioner.

Versus

State of Punjab and another

.....Respondents.

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

Present:- Mr. Vishal Sharma (Vasudeva), Advocate
for the petitioner.

Ms. Ruchika Sabharwal, A.A.G., Punjab.

Mr. Gaurav Partap Singh Pathania, Advocate
for respondent No.2-complainant.

HARI PAL VERMA, J.(Oral)

Prayer in this petition filed under Section 438 Cr.P.C. is for grant of anticipatory bail to the petitioner in FIR No.67 dated 11.07.2019 under Section 498-A read with Section 34 IPC (Section 406 IPC added later on) registered at Police Station Division No.2, District Pathankot.

The present FIR was registered at the behest of respondent No.2-complainant Rinki Sharma, wherein she has alleged that her marriage was solemnised with the petitioner on 14.11.2015 and one male child was born from this wedlock on 17.11.2017. Her father had spent enough money on the marriage, much beyond their means, as per the demands of the family of the petitioner. Her father had given branded clothes to all the family members,

gold items, household articles and cash etc. However, soon after the marriage, the petitioner and his family members started harassing the complainant on account of demands of dowry. The complainant has alleged that on 28.05.2017, her parents-in-law, husband (petitioner herein), sister-in-law Nitika Sharma and her husband Pankaj Sharma, all started abusing her and started beating her mercilessly without any reason and provocation. Now, she has been living with her father at Pathankot.

On 25.09.2019, when the present petition was listed for hearing, this Court had passed the following order:

“At this stage, counsel for the petitioner states that he has the instructions to state that the petitioner is ready to take his wife with him and it is for this reason, the petitioner has filed a petition under Section 9 of Hindu Marriage Act.

Notice of motion.

On oral request of counsel for the petitioner, complainant-Rinki Sharma is ordered to be impleaded as respondent No.2.

Petitioner shall file an amended memo of parties with the registry within a week from today.

Matter is referred to Mediation and Conciliation Centre of this Court.

Parties are directed to appear before the Mediation and Conciliation Centre of this Court on 31.10.2019. However, the petitioner-husband shall pay a sum of Rs.25,000/- to respondent-wife on her appearance before the aforesaid Centre as litigation expenses, which shall be a condition precedent for initiation of mediation proceedings.

For awaiting report, list on 17.12.2019.

Meanwhile, till the next date of hearing, arrest of the petitioner shall remain stayed.”

Thereafter, vide report dated 04.12.2019, the Mediator has submitted that joint as well as separate sessions held with the parties, but no amicable settlement could take place and the file was sent back to this Court.

Respondent No.2-complainant is present in Court. Learned counsel for respondent No.2, on instructions from his client, has submitted that the respondent No.2 has shown her inclination to join the matrimonial home and to stay with the petitioner unconditionally.

However, learned counsel for the petitioner, on instructions from the petitioner, who is present in Court, states that during the mediation, the conduct of respondent No.2 was not such that she can stay with the petitioner, and therefore, he is not inclined to take the respondent No.2-wife to the matrimonial home. Though the petitioner had offered a sum of Rs.12 lakh for the past, present and future maintenance for the respondent No.2 and the minor son, who is about 2 years of age, but the complainant had demanded a sum of Rs.20 lakh.

I have heard learned counsel for the parties.

On 25.09.2019, when notice of motion was issued in the case, learned counsel for the petitioner had made a very clear statement that the petitioner is ready to take his wife with him and it is for this reason, he has already filed a petition under Section 9 of the Hindu Marriage Act. However, today the petitioner has outrightly declined to take his wife to the matrimonial home. When the petition came up for hearing for the first time before this Court on 25.09.2019, the petitioner had shown his inclination to take his wife

to the matrimonial home, but now, he is not interested to do so. Therefore, this Court finds that the conduct of the petitioner is totally indifferent and he is probably avoiding his social and moral responsibility to keep his wife with him. There are allegations against the petitioner for harassing and beating the complainant on account of demand of dowry.

In ***Mayank Pathak Versus State (Govt. of NCT of Delhi) and another 2014(3) RCR (Criminal) 853*** Hon'ble Supreme Court has observed that the anticipatory bail was rightly rejected by the High Court in that case keeping in view the serious allegations of illegal demands of dowry made by the accused and cruel treatment. The relevant observations made in paragraph No.6 of the said judgment read as under:

“6. This Court finds it unfortunate that the parties cannot settle such a matter and the petitioner is willing to fight out the matter in court. We are conscious that the statements made in the court in the attempt for conciliation are not evidence before the court and will not be used as such. In any case, we are of the view that the allegations of cruelty and torture at the hands of the petitioner and the alleged desertion of the complainant as a result of beating, completely disentitle the petitioner to any consideration for anticipatory bail.”

Therefore, considering the rival contentions of learned counsel for the parties and as well as in the light of law laid down in ***Mayank Pathak's case (supra)***, this Court finds that no ground is made out to grant anticipatory bail to the petitioner.

Accordingly, the present petition, being devoid of any merit, is dismissed.

It is made clear that the observations made hereinabove shall not be construed as an expression of opinion on the merits of the case. The trial Court shall not be influenced with the observations made hereinabove in any manner.

January 21, 2020
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned:	Yes
Whether Reportable:	No