

102.

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

CRM-M-51952-2019

Date of decision: 03.03.2020

ANIL

... Petitioner

versus

STATE OF HARYANA AND ANOTHER

.... Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Anil Ghanghas, Advocate,
for the petitioner.

Ms. Gaganpreet Kaur, AAG, Haryana,
for respondent No.1.

Mr. Akash Vashisth, Advocate,
for respondent No.2.

HARI PAL VERMA, J.

Prayer in this petition filed under Section 438 Cr.P.C. is for grant of pre-arrest bail to the petitioner in case FIR No.481, dated 18.10.2019, registered under Sections 323, 34, 498-A, 506 of IPC, at Police Station Tosham, District Bhiwani.

The aforesaid FIR was registered at the behest of the complainant whose marriage was solemnized with the petitioner on 01.02.2018. As per the FIR, the parents of the complainant have given sufficient dowry and stridhan more than their capacity in the marriage, but the accused are greedy and they started harassing, beatings complainant for not bringing sufficient dowry and started taunting that whatever has been brought, is of inferior quality. The accused used to taunt the complainant

that she has come from very poor family. Her father has spent more than Rs.20 lacs in her marriage, but still the accused were not satisfied. She was asked to bring Rs.10 lacs in place of car, otherwise there would be no space for her in the matrimonial house. Being harassed by the accused, the complainant asked her father to arrange cash and accordingly, her father arranged Rs.3 lacs which was handed over to the petitioner by her brother on 26.05.2018. The said money was handed over by the petitioner to his aunt (*mousi*) as she used to demand this money from the complainant, but still the accused were not satisfied and their behaviour has become rude towards the complainant. On 30.06.2018, the petitioner gave slaps to the complainant on her face and also given fist blows on her back. The noise may not go outside, the petitioner speeded up the cooler and pressed her face with blanket. The other co-accused Rajbala and Monika also gave beatings to her and also pulled her hairs. The complainant informed her family, and her uncle and brother reached there. The petitioner also called his father from the village. The petitioner raised finger on the character of the complainant. However, on assurance given by her father-in-law that they will keep her nicely, the uncle and brother of the complainant left her there. But still, they did not mend their ways and in July, 2017, on the day of rituals of her grandmother, they left the complainant in her house. Till November, they did not make any contact with the complainant. The petitioner used to abuse her father, uncle and brother on phone and also used filthy language to her mother and sister. 10 days prior to November 19, 2018 when the marriage of the sister of the petitioner was fixed, her father-in-law came to her house with invitation card and after discussion, he told that petitioner will come and take the

complainant with him, but no body came. Despite the complainant's father went to her in-laws house with 2-3 men, the accused did not converse and said that they have no time to talk. Even then, the complainant attended the marriage with her brother to maintain the relationship and none of them talk to her brother. Once again, her father went to the in-laws house but no body converse with him and rather used wrong words. After some time, the petitioner called the complainant and asked her to come home but without mobile and asked her to assure that she will not talk to her parents. In order to maintain relationship, the complainant went to the matrimonial home. But the accused did not mend their ways and never medicated her on her illness and rather asked her to go to her house for taking medicines. The complainant visited the matrimonial house number of times. The petitioner tortured her physically and mentally by saying that why she has come back to the matrimonial home when he has not gone to bring her. Thereafter, she was sent back on 04.04.2019 to bring Rs.2 lacs in cash.

On 18.12.2019, learned counsel for respondent No.2, on instructions from the complainant who was present in the Court, stated that the complainant is ready to stay with the petitioner-husband in a separate accommodation, if arranged by him. The counsel for the petitioner was not averse to such offer made by the complainant. Accordingly, the matter was referred to the Mediation and Conciliation Centre of this Court and the following order was passed:-

“Power of attorney filed on behalf of respondent No.2 in Court, is taken on record.

Learned counsel for respondent No.2, on instructions from his client, states that respondent No.2-wife is ready to stay

with the petitioner husband in a separate accommodation, if arranged by him.

At this stage, learned counsel for the petitioner prays that the matter be referred to the mediation.

Accordingly, the petitioner and respondent No.2 are directed to appear before the Mediation and Conciliation Centre of this Court on 09.01.2020. However, the petitioner shall pay a sum of Rs.20,000/- to respondent No.2 on her causing appearance before the aforesaid Centre as litigation expenses, which shall be a condition precedent for initiation of mediation proceedings.

For awaiting report, list on 02.03.2020.

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

Pursuant to the aforesaid order, a report dated 10.02.2020 has been received from the Mediation and Conciliation Centre of this Court that the parties could not reach at an amicable settlement.

Accordingly, the matter was taken up for hearing on 02.03.2020 and this Court directed the petitioner to remain present in this Court on 03.03.2020.

The parties are present in the Court. Though the respondent-wife is still ready to stay with the petitioner, but the petitioner-husband who is also present, is not inclined to take her to the matrimonial home.

The conduct of the petitioner has been noticed by the learned Additional Sessions Judge while declining his application for anticipatory bail vide order dated 30.11.2019. On 30.11.2019 when the case was fixed before the Additional Sessions Judge and was fixed for arguments on the bail application, the Court has counselled the parties for some time and

during the course of proceedings, the parties have decided to stay together as a married couple and they have further assured that they will not do any such act which may spoil their matrimonial life. Noticing such conduct of the petitioner, the complainant had also stated that she has no objection in case the petitioner is admitted on bail, but after some time, she again appeared before the court below and stated that the petitioner has left the court complex leaving her behind, though she was still ready to have restitution of conjugal rights with the petitioner.

Counsel for the petitioner states that the contents of the FIR are false. The petitioner is ready to keep the wife provided she gives in writing that she admits her mistakes. Virtually, the petitioner is compelling the complainant to admit her mistakes. Merely because the petitioner is husband, he cannot dictate his terms the manner in which he is dictating in proceedings pending before this Court as well as before the learned Additional Sessions Judge.

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 the 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 hereby dismissed.

(HARI PAL VERMA)
JUDGE

03.03.2020
sanjeev

Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No