

20.01.2021
Sl. No.9
AP/ss

CRM 7 of 2021
(Through Video Conference)

Kalyan Koley

... Petitioner.

Vs.

The State of West Bengal

... Respondent.

M/s Suman Sengupta,
Debanjan Das and
Sumitava Chakraborty, Advocates
...for the petitioner present in Court.

M/s Aditi Shankar Chakraborty, Ld. A.P.P. and
Tapan Bhattacharya, Advocates
...for the respondent present in Court.

The present application has been filed by the petitioner seeking pre arrest bail in Dinhata Women Police Station Case No. 108 of 2020 dated 17.12.2020 registered under Section 498A of the Indian Penal Code read with Sections 3/4 of the Dowry Prohibition Act.

The learned counsel for the petitioner submitted that the parties were married on 21st May, 2009. They have been happily living together. A girl child was born out of the wedlock. The girl child is about nine years of age at present. All of a sudden the wife left the matrimonial home on 19.12.2018. As the effort of the petitioner was to get back his wife to their matrimonial home he filed a petition for restitution of conjugal rights on 07.08.2019, which is still pending. He further submitted that the petitioner also filed a petition for seeking custody of the minor child on 07.12.2020. The present complaint was filed to the police as a counter blast to the aforesaid petitions filed by the petitioner. The allegations against the petitioner are totally false.

The alleged demand of dowry was raised about five years after the marriage took place i.e. in 2014. Thereafter there is no allegation regarding demand of dowry or torture of the complainant. He further submitted that the petitioner is still ready and willing to bring his wife back to their matrimonial home and to resolve the disputes, if any.

On the other hand, the learned counsel for the respondent submitted that there are specific allegations of demand of dowry against the petitioner. The demand of dowry was not made initially as it was a love marriage and no dowry was given. Hence, prima facie case is made against the petitioner.

After hearing the learned counsel for the parties and considering the arguments raised by them, we find it to be a fit case to grant pre arrest bail to the petitioner as apparently the effort of the petitioner seems to be to resolve the issues, if any, which may be there in the matrimonial life. The marriage took place a decade prior to the filing of the complaint. A minor girl child was born out of the wedlock whose future is also at stake.

Accordingly, we direct that in the event of arrest, the petitioner be released on bail upon furnishing of bail bonds to the satisfaction of the arresting officer. The petitioner shall be bound by the conditions laid down under Section 438(2) of the Code of Criminal Procedure, 1973.

The present petition is disposed of accordingly.

Considering the fact that it is a matrimonial dispute, effort should be made to resolve the same.

Let the parties, namely the petitioner and the complainant wife, appear before the Mediation Centre at Cooch Behar on February 18, 2021 to make efforts to resolve the disputes.

Copy of the order be sent to the Member Secretary, District Legal Services Authority, Cooch Behar.

(Rajesh Bindal, J.)

(Saugata Bhattacharyya, J.)