

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

205

CRM-M-38010-2020

Date of Decision : July 19, 2021

KESHAV DUGGAL

.....Petitioner

VERSUS

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present : Dr. Anmol Rattan Sidhu, Sr. Advocate assisted by
Mr. Parvez Chugh, Advocate for the petitioner.

Mr. Naveen Singh Panwar, DAG, Haryana.

Through Video Conferencing

JASGURPREET SINGH PURI. J. (Oral)

The present petition is filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in case FIR No.75 dated 13.10.2020 under Sections 323/34/354-A/377/406/498-A/506 of IPC, registered at Police Station, Women Police Station, Sector-51, Gurgaon, District Gurugram.

Learned Sr. counsel for the petitioner has submitted that the petitioner who is the husband of the complainant has been falsely implicated in the present case and false charges were made against him in the complaint made to the police and there are also allegations against the father and mother of the petitioner as well. However, during the course of the investigation, the father of the petitioner namely, Mohanish Duggal has been exonerated by the police and the mother has also been exonerated by the police itself.

Notice of motion was issued in this case on 23.11.2020 wherein learned counsel for the petitioner had stated before this Court that the father of the petitioner had visited the Police Station in order to join the investigation and had taken alongwith Audi Car which has already been handed over to the complainant. Furthermore the father of the petitioner had also taken the jewellery items which contained Istridhan in order to hand over to the complainant but the same was refused by the complainant on the ground that the jewellery articles were not in good shape and broken and, therefore, refused to take the same. Similarly, he had also taken Rollex watch but the same was also refused by the complainant.

During the course of the arguments, learned counsel for the petitioner had stated on the aforementioned date that in order to show his bonafide for the purpose of settlement between the parties, he wishes to deposit Rs.25 lacs in the Registry of this Court so that the dispute can be settled in a peaceful manner with the complainant and he undertook to deposit the same amount within 10 days with the Registry of this Court. Thereafter, the petitioner had deposited the aforesaid amount in the Registry of this Court. The petitioner was also granted interim protection by this Court vide order dated 23.11.2020 subject to his joining of investigation and co-operating with the same and subject to conditions as contained in under Section 438(2) Cr.P.C. and some other conditions were also imposed by this Court upon the petitioner.

The learned counsel for the complainant also on the aforesaid date submitted that the complainant would be happy in case the

matter is resolved amicably.

Thereafter on 2.12.2020, both the learned counsel for the petitioner and the complainant made a joint request before this Court that the matter be sent to the Mediation Centre, Gurugram and, therefore, this Court fixed 21.12.2020 as a date for appearing before the Mediation Centre at Gurugram. On 22.1.2020, this Court was informed that the mediation was not successful. Thereafter, on 19.2.2021, learned State counsel had informed this Court that the offences under Sections 377, 354-A and 34 IPC have been deleted by the police during investigation.

The State has filed reply in the present case by way of an affidavit of Mr. Pankhuri Kumar, Assistant Commissioner of Police, CAW East, Gurugram on behalf of the State of Haryana dated 15.3.2021 which is taken on record. However, the complainant has not filed any affidavit and the learned counsel has addressed arguments before the Court.

Mr. Panwar, learned DAG, Haryana while referring to the affidavit filed by the State has submitted that the co-accused Mohanish Duggal (father of the petitioner) joined the investigation on 17.11.2020 and he produced dowry articles which were taken into possession vide recovery memo and the said articles were got identified by the complainant. She took the Audi car No.DL-8C-AL-2511 and refused to take the rest by stating that the said articles are either incomplete or damaged and said articles were returned to the accused Mohanish Duggal (father of the petitioner). The allegations of unnatural intercourse by the husband and sexual harassment by the father of the petitioner were not

substantiated and as such Sections 377/354-A/34 IPC were deleted. Thereafter, the petitioner joined the investigation on 3.12.2020 and was freed as per the law laid down by the Hon'ble Supreme Court in **Arnesh Kumar Vs. State of Bihar (2014(3) RCR (Criminal) 527)**. The challan against the petitioner was submitted in the Court on 3.2.2021 and now the trial is pending in the Court of learned Judicial Magistrate 1st Class, Gurugram and is fixed for 20.7.2021 for arguments on charge.

As per the affidavit filed by the State, the petitioner applied for bail before the learned Judicial Magistrate 1st Class, Gurugram on 3.2.2021 and the learned Judicial Magistrate 1st Class, observed that as the petitioner has joined the investigation in compliance with Arnesh Kumar's case (Supra), and no purpose would have been served by sending him to custody and he was, thus, granted bail subject to furnishing bail bonds in the sum of Rs.50,000/- with one surety of the like amount. The order passed by the learned Judicial Magistrate 1st Class, dated 3.2.2021 has been attached alongwith the reply as Annexure R-1.

Learned Sr. counsel has submitted that relief in the present case pertains to the grant of anticipatory bail and since the petitioner has been granted bail by the learned trial Court at the time when the challan was presented, the subject matter of the present petition has become redundant and, therefore, the present petition may be disposed of accordingly. He has further prayed that since the subject matter of the present petition has become redundant, he may permitted to withdraw the aforesaid amount of Rs.25 lacs. He submitted that this amount was

deposited by the petitioner at the time when the notice of motion was issued in order to show his bonafide so that an amicable settlement may be reached between the parties but the settlement could not be reached at the mediation centre and the case is now pending before the learned trial Court and now it is fixed for consideration of framing of charges and therefore, he may be permitted to withdraw the aforesaid amount. He further submitted that the amount which was deposited by him was not a condition precedent for the grant of anticipatory bail to the petitioner and it was only his voluntarily act in order to show his bonafide that the said amount was deposited so that matrimonial dispute may be amicably settled between the parties.

The learned counsel for the complainant has, however, stated that so far as the subject matter of the present case is concerned, it has become redundant in view of the petitioner having been granted bail by the learned trial Court but he is not entitled for the withdrawal of Rs.25 lacs in view of the fact that the petitioner has not returned the dowry articles to the complainant to her full satisfaction.

I have heard learned counsels for the parties.

Admittedly, the learned trial court has already granted bail to the petitioner vide order dated 3.2.2021 at the time of the presentation of challan and the present petition pertains to the grant of anticipatory bail and, therefore, the subject matter has become redundant. So far as the prayer of the learned counsel for the petitioner for the withdrawal of Rs.25 lacs is concerned, it can be seen from the order dated 23.11.2020 wherein notice of motion was issued by this Court that learned Sr.

counsel for the petitioner had requested this Court that in order to show his bonafide for a peaceful settlement between the parties, he wishes to deposit Rs.25 lacs in the Registry of this Court so that dispute can be settled in a peaceful manner. Therefore, the deposit of Rs.25 lacs was only a voluntary act on behalf of the petitioner and it was not a condition precedent for the grant of interim or anticipatory bail. The deposit of Rs.25 lacs was only to show his bonafide that he is ready for any amicable settlement but unfortunately settlement could not be effected between the parties. Apart from this, as per the stand taken by the learned State counsel as well as in the affidavit by the State, the father of the petitioner had produced the dowry articles which were taken into possession vide recovery memo and the said articles were got identified from the complainant and she took Audi Car but refused to take the rest by stating that the articles are either incomplete or damaged. Therefore, the subject matter of the remaining dowry articles, if any, is yet to be decided by the learned trial Court. Therefore, this Court is of the view that it will be in the interest of justice that the amount of Rs.25 lacs be returned back to the petitioner.

Consequently, the petitioner shall be at liberty to withdraw the aforesaid amount of Rs.25 lacs from the registry of this Court within a period of four weeks from today.

The petition stands disposed of, accordingly.

July 19, 2021
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(JASGURPREET SINGH PURI)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No