

Sr. No.212

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

(through video conferencing)

CRM-M-7982-2021

Date of Decision:13.01.2022

Sukhwinder Kumar

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Ms. Vasundra Dalal Advocate
for the petitioner.

Ms. Jaspreet Kaur, A.A.G. Punjab.

Mr. P.S. Phulka, Advocate for the complainant.

Manjari Nehru Kaul, J. (Oral)

The present petition has been filed under Section 438 Cr.P.C., for grant of anticipatory bail to the petitioner in case FIR No.43 dated 21.12.2020 under Sections 406, 498-A IPC registered at Police Station Women Cell District Bathinda.

Learned counsel for the petitioner submits that in compliance of the order dated 19.02.2021, the petitioner has joined investigation and co-operated with the investigating agency. It has been submitted that on account of a marital discord between the parties, FIR in question came into existence.

Learned State counsel on instructions from ASI Mander Singh does not dispute the factum of the petitioner having joined the investigation.

She on further instructions, submits that the petitioner is required for further

custodial interrogation to effect the recovery of approximately of Rs.1,00,000/-, which was given in cash at the time of marriage.

Learned counsel for the complainant has also invited attention of this Court to the impugned order wherein the trial Court has in paragraph-6 categorically noticed that an amount of Rs.1,00,000/- was transferred on 15.11.2018, followed by another amount of Rs.50,000/- on 6.12.2018 and an amount of Rs.23,000/- on 16.7.2020 by the family of the complainant into the account of the petitioner on a demand raised by the petitioner.

Learned counsel for the petitioner, however, has vehemently controverted the submission made by the counsel opposite. She submits that prior to the registration of the FIR in question, the complainant had made a complaint to the police in District Moga. However, subsequently, she withdrew the said complaint as she made a statement to the effect that she did not want to live with the petitioner and wanted a divorce from him. It is essentially on account of temperamental differences and marital discord that a false and fabricated FIR has been registered against the petitioner. She has also submitted that the petitioner wanted to amicably settle the dispute with his wife, for which he had also filed a petition under Section 9 of the Hindu Marriage Act.

Heard learned counsel for the parties.

A perusal of the allegations levelled in the FIR reveals that the marriage between the parties was solemnized in February, 2019 and an amount of Rs. 2.00 lakh, in cash was given at that time. The amount of Rs. 1.00 lakh, which as per learned State counsel is yet to be recovered, was allegedly given on 15.11.2018 and 06.12.2018 i.e. prior to the solemnization of the

marriage of the parties. Moreover, the deposit of the said amounts do not stand reflected in the FIR in question.

In the facts and circumstances, as enumerated hereinabove, the petition is allowed and interim order dated 19.02.2021 is made absolute subject to the conditions laid down in Section 438 (2) Cr.P.C. It is, however, made clear that anything contained hereinabove shall not be construed to be an expression of opinion on the merits of the case.

13.01.2022
rajeev

(Manjari Nehru Kaul)
Judge

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