

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

(Heard through VC)

CRM-M-18777 of 2021 (O&M)
Date of Decision: January 24, 2022

Lakhwinder Singh

...Petitioner

Versus

State of Punjab

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. S.S. Momi, Advocate
for the petitioner.

Ms. Rashmi Attri, AAG Punjab.

Mr. R.K. Grewal, Advocate
for the complainant.

JAISHREE THAKUR, J. (Oral)

1. The petitioner herein has approached this Court for grant of anticipatory bail in an FIR No.11 dated 05.03.2021, under Sections 406, 498-A of Indian Penal Code (Section 448 IPC added later on), registered at Police Station Women, District Patiala.

2. In brief, the facts as in the FIR are, that a marriage of the complainant and the petitioner was solemnised on 12.02.2013 as per Sikh rites and ceremonies. Out of this marriage a son was born. In the FIR, it was stated that at the time of marriage it had been informed that Lakhwinder Singh, the petitioner herein, was a graduate and had one shop in Patiala,

apart from having a large house in Sanaur, but it was not true as Lakhwinder Singh had studied up to the 12th class and did not have a shop, as claimed. The complainant was tortured, as there was a constant demand for dowry. She was turned out of her matrimonial home, after being subjected to physical cruelty. Her father sent her back to her matrimonial home and a FD was also made for a sum of Rs.2 lakhs to ensure her well-being. However, the demand for more money and a car continued. She started doing a private job, but her salary was retained by the petitioner and spent on his liquor. Her father in order to save her matrimonial home, bought and constructed one house in her name on a 200 Sq. yds plot No. 65, Punjabi Bagh Colony, Sanaur in District Patiala and furnished the same with furniture, refrigerator and stove etc. It is stated that an amount of ₹ 35 lakhs was spent. Despite all this, the demands for car etc. never ceased and ultimately, she was turned out of her own home by giving her beatings. Consequently, an FIR came to be registered and the bail application of the petitioner was dismissed by the Additional Sessions Judge Patiala on the ground that the petitioner had treated his wife with cruelty since the year 2015.

3. Notice of motion was issued in the said case and the petitioner herein was directed to join investigation. An appearance was caused by the counsel for the complainant, who opposed the confirmation of interim bail by contending that the petitioner herein is continuing to reside in the house that was built on a plot purchased by her father, which house had been built from his retirement funds, whereas she was residing with her father. The State counsel too submitted that though the petitioner had joined the investigation, recoveries had not been effected as on date. There was a

request for mediation by the petitioner and this court by an order dated 6th of October 2021, had acceded to the request to send the parties to mediation, however there was a direction to the petitioner to vacate the premises, so that the complainant, who ostensibly was the owner of the house, can reside in it along with the minor child.

4. The petitioner has filed an application seeking modification of the order dated 6.10.2021 stating that he is ready and willing for an amicable settlement and for mediation, but the condition of vacation of the house should be modified. It is prayed that the petitioner is residing in house along with his parents and no onerous condition should be imposed by the court while sending the parties for mediation. In fact he relies upon judgements passed by the Coordinate Benches in ***Sombir Singh vs. State of Haryana, CRM-M-30659 of 2021 decided on 03.08.2021*** and ***Mohammed Abrar vs. State of Haryana, CRM-M- 34364 of 2021 decided on 03.09.2021***. Counsel for the petitioner has also placed reliance upon a judgement rendered by the Supreme Court in ***Social Action Reform For Manav Karorhi vs Union Of India, Law Finder Document ID 122455*** which pertains to quashing of proceedings by the High Court of offences which are not compoundable. Counsel for the petitioner has also made an offer that he is ready and willing to transfer his own house in Sanaur, which as per his own statement is valued at Rs. 10 laks in the name of the complainant.

5. This offer of transfer of the house belonging to the petitioner in Sanaur was put to the complainant, who appeared with her counsel on video conferencing. This offer has been rejected as she has stated that she is not

willing to go for mediation or go back to her husband, as he is a drunkard. It is stated that the house in Sanaur is not comparable to the house that was built by her father for her residence.

6. I have heard the counsel for the parties and find that there is no ground for interference by this court even though the petitioner has joined investigation. The complainant has alleged cruelty at the hands of the petitioner and a constant demand of money and a car, to the extent that she has been thrown out of her matrimonial home which stands in her name after it was purchased by her father out of his own funds. The petitioner and his family members are residing in the said house, whereas the complainant and her minor child have been ousted from the same and are living at the mercy of her parents. The conduct of the petitioner can be established from his actions of not wanting to vacate the house which does not belong to him, while trying to palm off a house which is far lesser in value than the one which belongs to the complainant. An impression is gathered that he is trying to usurp this property much more valuable than the one he owns.

7. To check the *bona fides* of the petitioner, who was wanting to have the matter referred for mediation to settle the dispute, a condition had been imposed by this court, by asking him to vacate the said house before referring the matter for the mediation. However the petitioner has no intention of vacating the said house. An argument has been raised that onerous conditions could not have been imposed by this court while sending the matter for mediation, by relying upon the judgements as referred to above. However, none of the judgements as relied upon are applicable to the facts and circumstances of the present case. Both criminal miscellaneous

petitions relied upon pertained to the condition imposed by the Chief Judicial Magistrate for offences under the Mines And Minerals (Development And Regulation) Act 1957 and release of vehicles seized. The condition of imposing sureties and furnishing superdginama were under consideration, which is not the case in hand. Even the judgement relied upon of the Apex Court would have no relevance in the facts and circumstances of the present case.

8. Consequently, no ground for grant of anticipatory bail is made out. The petition and all miscellaneous application stand dismissed. However, any observations made herein above are only for the purpose of deciding the instant bail petition and not an opinion on merits.

January 24, 2022
vijay saini

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No