

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

(101)

CRM-M-25823-2021 (O&M)

Date of decision : 24.02.2022

Kamaldeep Kanda

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Nitin Mathur, Advocate for the Petitioner.

Mr. Dhruv Dayal, Senior Deputy Advocate General,
Punjab for State-respondent No.1.

Ms. Surbhi Kaushik, Advocate
for complainant-respondent No.2.

...

SUVIR SEHGAL, J. (ORAL)

Heard through Video Conferencing.

Vide the instant petition filed under Section 438 of the Code of Criminal Procedure, 1973, the petitioner seeks grant of anticipatory bail in case bearing FIR No.85 dated 22.05.2021, registered for offences under Sections 406 and 498-A of the Indian Penal Code, 1860, at Police Station Sadar, Hoshiarpur (Annexure P-1).

FIR (Annexure P-1) has been registered on the complaint of Mamta on the allegation that though at the time of her marriage with Kamaldeep Kanda (present petitioner) on 15.10.2018,

her parents gave sufficient dowry and jewellery as demanded by her in-laws, yet the petitioner and his family members were not satisfied and few days after marriage, they started harassing her for bringing insufficient dowry. Kamaldeep Kanda demanded a motor-cycle, which demand her parents were not in a position to fulfill and attempts to reason out with him did not succeed. On 30.06.2019, when she gave birth to twins, her parents gave valuable articles in gifts and for a few days, the attitude of her husband was normal, but he again started illtreating her. On 14.04.2020, he physically assaulted her and when she informed her parents, who intervened, she was turned out of the matrimonial home on 16.04.2020, when she underwent treatment. A complaint dated 09.06.2020 was submitted by her with the police and a compromise was arrived at on 24.07.2020 (Annexure P-5), but the petitioner did not adhere to it, he did not rehabilitate her nor did he pay her the agreed monthly maintenance of Rs.5,000/-.

After hearing the counsel for the petitioner, this Court vide order dated 07.07.2021 issued notice of the instant petition, directed the parties to appear before the Mediation and Conciliation Centre of this Court to explore the possibility of settlement and directed the petitioner to join the investigation. Although, the mediation proceedings remained inconclusive due to the outbreak of the pandemic, but counsel representing complainant-respondent No.2 made a statement before this Court on 16.11.2021 that there is no possibility of any settlement between the parties.

Upon instructions from ASI, Balbir Singh, State counsel submits that though the petitioner has joined the investigation, yet recovery of some items of dowry is still to be effected from him. Counsel representing the complainant-respondent No.2 besides referring the MLR dated 16.04.2020 (Annexure P-3) of the complainant has also referred to the list of dowry articles, which have not been received back, the total value of which is Rs.27,280/-.

Counsel for the petitioner has disputed the list of articles referred to by the complainant-respondent No.2, but during the course of hearing on 27.01.2022, he submitted that in order to show his bona fide, the petitioner is willing to pay a sum of Rs.15,000/- to the complainant, and sought three weeks time to do so. Despite repeated adjournments, the petitioner has failed to make the payment.

Heard counsel for the parties.

The items and articles of dowry, which are allegedly with the petitioner, are disputed and their non-recovery is not a ground for denial of the confirmation of the interim bail granted to the petitioner. Reliance in this regard is placed upon the judgment of the Hon'ble Apex Court in *Rajesh Sharma and others Versus State of Uttar Pradesh and another* (2018) 10 SCC 472, *Social Action Forum for Manav Adhikar and Another Versus Union of India and others* (2018) 10 SCC 443 and also upon a judgment of a co-ordinate Bench of this Court in *Anil Rajput Versus State of Haryana* 2010 (6) RCR (Criminal) 1126.

Without commenting upon the merits of the case, the petition is allowed and order dated 07.07.2021 is made absolute, subject to the conditions laid down in Section 438 (2) of the Code of Criminal Procedure. Additionally, it is directed that the petitioner will deposit a sum of Rs.15,000/- with the Illaqua Magistrate/Trial Court within a period of two months from today, which, on deposit, shall be kept by way of a fixed deposit with the Public Sector Bank for a period of one year with instructions for automatic renewal, to be disbursed to the party, who is found entitled to the amount on the conclusion of the trial. This deposit will be without any prejudice to the right of defence of the petitioner.

Needless to mention, in case the petitioner fails to comply with the aforesaid direction within the stipulated period, the instant petition shall be deemed to be dismissed and State-respondent No.1 shall be at liberty to proceed against him in accordance with law.

(SUVIR SEHGAL)

JUDGE

24.02.2022

Pardeep

Whether speaking/ reasoned	Yes
Whether Reportable	Yes