

209 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-27639-2022 (O&M)

Date of Decision: 06.12.2022

PARVEJ ALAM

... PETITIONER

VS.

STATE OF HARYANA AND ANOTHER

.. RESPONDENTS

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present : Mr. D.S.Matya, Advocate
for the petitioner.

Mr. Karan Garg, AAG, Haryana.

Mr. Talim Hussain, Advocate for
mr. Rajesh Lamba, Advocate, for respondent No.2.

VIVEK PURI, J.(ORAL)

On 13.09.2022, the following order was passed in the main
case:-

“Petitioner is seeking anticipatory bail in the case bearing FIR No.100 dated 20.03.2022, under Sections 323/406/498-A/506/34 IPC and Section 4 of Muslim Women (Protection of Rights or marriage) Act, 2019 (for short ‘Act’), registered at Police Station Ferozepur Jhirka, District Nuh.

Learned counsel for the petitioner contends that the marriage of the petitioner was solemnized with respondent No.2/complainant on 08.04.2018. Primarily, the allegations against the petitioner are to the effect that a sum of Rs.16,00,000/- was given for purchase of car by the parental family of the complainant. In fact, the car has been purchased by making the payment from the account of the father of the petitioner. Annexure P-3 is the copy of the statement of account which indicates that an amount to the tune of Rs.12,63,000/- was transferred to Galaxy Auto Mobiles and even, the father of the petitioner is regularly making the payment of the monthly installments in the loan account. Subsequently, the said vehicle has been stolen and an FIR No.29421 dated 11.11.2020 (Annexure P-5) has also been registered at P.S. Khyala. The marriage of the petitioner with the complainant has also ended in divorce by way of sending 03 notices of Talaknama Annexures P-7 to P-9 after a gap of one month each. Furthermore, the petitioner was granted interim bail by the Court below and he had also joined the investigation.

Learned State counsel has opposed the bail application on the score that there are serious allegations levelled against the petitioner with regard to commission of offence under the Act as he had put an end to the marriage by pronouncing triple Talaak.

Learned counsel for respondent No.2/complainant has also opposed the bail application on the score that the complainant never received the notices Annexure P-7 to P-9. In fact, the

petitioner had given talaak instantaneously on 24.12.2021 by uttering triple talaak in the presence of the father of the complainant. The petitioner has received the insurance claim with regard to the theft of the vehicle. Subsequently, the petitioner has also solemnized another marriage.

Be that as it may, it will be a debatable and moot point during the course of trial as to whether the pronouncement of talaak will attract the penal provisions of the Act, 2019.

Adjourned to 06.12.2022.

Meanwhile, it is directed that the petitioner shall join the investigation and would come present as and when called for and in the event of arrest, the petitioner shall be admitted to interim bail on his furnishing personal and surety bonds to the satisfaction of Arresting/Investigating Officer. The petitioner shall also abide by the conditions as specified under Section 438(2) Cr.P.C.”

Learned counsel for the petitioner contends that in pursuance of interim directions issued by this Court, the petitioner has joined the investigation and he is not in possession of any articles of *istridhan*.

Learned State counsel, on instructions from SI Sunil Kumar, submits that the petitioner has joined the investigation and his custodial interrogation is not required.

Learned counsel for the complainant has opposed the bail application on the score that dowry articles are yet to be recovered.

The controversy as to whether any dowry articles were entrusted to the petitioner and has been misappropriated by him will be a debatable and moot point during the course of trial. The petitioner has joined the investigation in pursuance of interim directions and his custodial interrogation is not required. As such, sufficient exceptional circumstances are made out to extend the concession of pre-arrest bail to the petitioner. Accordingly, order dated 13.09.2022, vide which the petitioner has been granted interim bail, is made absolute.

Petition is allowed.

06.12.2022
smriti

(VIVEK PURI)
JUDGE

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