

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

201

CRM-M-38814 of 2019
Date of decision:01.02.2022

Rohit Khantwal

... Petitioner

Vs.

State of Haryana and another

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Ms. Neha Dewan, Advocate
for the petitioner.

Ms. Deepshikha Chauhan, AAG, Haryana.

Mr. Namit Khurana, Advocate
for the complainant-respondent No.2.

SUVIR SEHGAL, J. (Oral)

Heard through video conferencing.

Instant petition has been filed under Section 438 Cr.P.C seeking grant of anticipatory bail to the petitioner in case FIR No.65 dated 02.04.2019 registered for commission of offences under Sections 323, 498-A, 406, 506 of Indian Penal Code, 1860 at Police Station Women, Yamuna Nagar, District Yamuna Nagar (Annexure P-1).

FIR (Annexure P-1) has been registered on basis of a complaint lodged by respondent No.2 on the allegations that she was married to the petitioner on 19.04.2018 but from the very beginning, she was ill-treated and harassed by her husband and his family members and repeated demands of dowry were made. On 27.06.2018, a sum of Rs.2.00 lacs was

transferred to the bank account of her husband by the complainant. However, this did not satisfy him and she was turned out of her matrimonial home on 18.10.2019.

Counsel for the petitioner urges that general allegation of dowry demand and harassment have been levelled and in pursuance to interim orders passed by this Court, the petitioner has joined the investigation and returned the articles allegedly in his possession.

Upon instructions from HC Suman, State counsel submits that although the petitioner has joined the investigation but recovery of some of the dowry articles are yet to be effected from him, which fact is refuted by the counsel for the petitioner.

Counsel representing the complainant has, in particular, made a reference to the payment of Rs.2.00 lacs to the petitioner.

Counsel for the parties have been heard.

When the petitioner initially came up for hearing before this Court, the petitioner submitted that he is ready to take the complainant-respondent No.2 back to the matrimonial home as he has instituted the petition for restitution of conjugal rights. Vide order dated 12.09.2019, this Court stayed the arrest of the petitioner and referred the parties to the Mediation and Conciliation Centre of this Court. However, the mediation proceedings failed and on 29.07.2021, this Court passed the following order:-

“It appears that the mediation between the parties has been unsuccessful.

Learned counsel for respondent No.2 would submit that the marriage was solemnized in the year 2018 and did not last for more than 05 months. Respondent No.2/complainant was subjected to physical abuse by the petitioner herein. It is also argued that the petitioner herein is evading service in proceedings that has been initiated under the Protection of Women from Domestic Violence Act, which are now listed for 30.07.2021 before the Court at Yamunanagar. It is submitted that on account of the conduct of the petitioner herein, he is not entitled to the benefit of anticipatory bail.

To check the bona fides of the petitioner, he is directed to put in appearance before the Court at Yamunanagr in proceedings that have been initiated under the Protection of Women from Domestic Violence Act, tomorrow itself.

Adjourned to 16.12.2021.

Petitioner is also directed to join the investigation within a period of one week and hand over all the dowry articles which he is having in his possession, on doing so, the petitioner be released on interim bail to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall continue to join the investigation as and when called upon to do so and shall abide by the conditions incorporated under Section 438(2) Cr.P.C.”

On the subsequent date, following order was passed on

16.12.2021:-

“At the outset, counsel for the petitioner submits that the petitioner has put in appearance before the Court at Yamunanagar in proceedings initiated under the Protection of Women from Domestic Violence Act, 2005.

Upon instructions from L/HC Renu, State counsel submits that though the petitioner has joined the investigation but recovery of some gold and electronic items, are yet to be effected from him.

Let the petitioner rejoin the investigation on 22.12.2021 at 11.00 a.m at Police Station Women, Yamunanagar and return the remaining articles. In case, he fails to do so, interim protection granted to him shall be liable to be vacated.

List on 01.02.2022.

Interim order to continue till the next date of hearing.”

Though it has been claimed that some recovery is yet to be effected from the petitioner, but that fact alone is not sufficient to decline the confirmation of the order of interim bail as has been held by Hon'ble Supreme Court in **Social Action Forum for Manav Adhikar and another Vs. Union of India and others 2018(4) RCR (Criminal) 226.**

A Co-ordinate Bench of this Court in **Anil Rajput and others Vs. State of Haryana 2010(6) RCR (Criminal) 1126** observed as under:-

“.....The dispute between the parties is a matrimonial

one. The petitioners have joined the investigation. The recoveries that may be due, are in the facts and circumstances liable to be inquired into. However, that would not now disentitle the petitioners to the concession of anticipatory bail. This is more so for the reason that if at some stage the parties agree to reconcile their differences then the fact that they had spent some time in custody would be a circumstance which may come in the way of amicably settling the matter.”

In view of the above, the petition is allowed and the order dated 29.07.2021 granting interim bail to the petitioner is made absolute, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure. In addition, the petitioner will deposit a sum of Rs.3.00 lacs with the Illaqa Magistrate within a period of one month from today. The deposited amount will be kept by the Court in a Fixed Deposit with a Bank for a period of one year with instructions for automatic renewal, subject to the final outcome of the case. This deposit will be without prejudice to the right of defence of the petitioner.

February 01, 2022
savita

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes