

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-54807-2021

Date of decision : 04.01.2022

Rajni Bala

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Amit Kumar Saini, Advocate
for the petitioner.

Mr.K.S.Aulakh, DAG, Punjab.

Mr.Kanwaljeet Singh Derabassi, Advocate
for the complainant.

VIKAS BAHL, J.(ORAL)

This is a first petition under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in FIR no.0357 dated 01.12.2021 registered under Section 498-A IPC at Police Station Derabassi, District SAS Nagar.

Learned counsel for the petitioner has submitted that in the present case, the petitioner was earlier married to one Harmesh Singh who had unfortunately died and thereafter the petitioner had got married to Amarjit Singh, the father-in-law of the complainant. It is also submitted that even Amarjit Singh had a first wife who had unfortunately died and the present marriage of Amarjit Singh was his second marriage also and out of first marriage of Amarjit Singh, three children were born namely,Anoop

other hand, the petitioner also had two children from the first marriage. It is further submitted that the petitioner primarily resides at House no.286, Ward No.5, near Old Sabzi Mandi, Kang Mohalla, Samrala and not in the matrimonial home which is at village Makkowal, Tehsil Chamkaur Sahib, District Rupnagar. It is further submitted that prior to the registration of the present FIR, the said Amarjit Singh had disinherited his son Anoop as well as his daughter-in-law (complainant Satwinder Kaur) and also the daughters Sonia Rani and Alka Rani from his moveable and immovable property. It is further submitted that a perusal of the FIR would show that marriage had taken place between Anoop son of Amarjit Singh and the complainant on 23.11.2020 and that as per the allegations, the petitioner had gone to the paternal home and had come back on 13.01.2021. It is further alleged that on 17.01.2021 the father of the complainant came to her in-laws house to take her back and it is submitted that as per the said allegations, the petitioner and the complainant stayed together for a period of only 4 days. It is further submitted that the petitioner is residing separately and has nothing to do with the matrimonial dispute between the complainant and her husband Anoop, who is not even the real son of the present petitioner.

Notice of motion.

On asking of the Court, Mr.K.S.Aulakh, DAG, Punjab, appears and accepts notice on behalf of the State of Punjab. Mr.Kanwaljeet Singh Derabassi, Advocate, appears for the complainant. They have submitted that they are fully prepared to argue the matter and assist this Court. Learned State counsel as well as counsel for the complainant have opposed the petition for anticipatory bail. It is submitted that as per the allegations in the FIR, there is specific entrustment of gold earrings to the petitioner and there

are further allegations that the petitioner had taken away Rs.30,000/- of Shagun from the bag of the complainant. It is further submitted that the petitioner along with other co-accused used to harass the complainant by demanding dowry and also wanted the complainant and family to give gold earrings for her daughter Manisha. It is further submitted by the learned counsel for the complainant that in the present case, Anoop was already married and this fact has not been disclosed to the complainant party.

Learned counsel for the petitioner in rebuttal has submitted that in the present case, the FIR was only registered under Section 498-A IPC. Reliance has been placed upon the judgment of coordinate Bench of this Court passed in CRM-M-18658-2020 titled as ***“Harsh Mann vs. State of Punjab & Another”*** to contend that in the present case where offence under Section 498-A IPC is alone present then, nothing is to be recovered from the petitioner. It is further submitted that although Anoop was not the son of the petitioner but in fact the said Anoop is already divorced and this fact was already informed to the complainant and their family members. Learned counsel for the petitioner has further submitted that at any rate, no offence under Section 420 or 206 IPC is there in the FIR. It is further submitted that to show her bonafide without prejudice to her rights and without admitting the allegations in the FIR, the petitioner is ready to deposit Rs.20,000/- before the Illaqa Magistrate within a period of 3 weeks from today and prays that same be paid along with interest to the person who ultimately succeeds in the trial.

This Court has heard learned counsel for the parties and perused the paper book.

It is not in dispute that present petitioner is the second wife of

Amarjit Singh and was earlier married to one Harmesh Singh and from the earlier wedlock, had two children namely Ramneet and Manisha. It is further not in dispute that Amarjit Singh, father-in-law of the complainant was earlier married and had three children from the said wedlock including Anoop, husband of the complainant. It is the case of the petitioner that the petitioner has been residing in House no.256, Ward No.5, Near Old Sabzi Mandi, Kang Mohalla, Samarala and she is not staying in the matrimonial home and for the same, reference has been made to the Punjab Residence Certificate (Annexure P-2) It is further the case of the petitioner that in fact that Amarjit Singh vide advertisement in newspaper dated 03.02.2021 (Annexure P-4) had disinherited his son Anoop, daughter-in-law Satwinder Kaur and daughters Sonia Rani and Alka Rani and the present FIR was registered subsequent to the said advertisement dated 03.02.2021. The petitioner is a lady of 43 years and is not involved in any other case and the present FIR is registered under Section 498-A IPC alone at this stage and as per the law relied upon by learned counsel for the petitioner in **Harsh Mann's** case (supra), the custodial interrogation in such a case would not be required as nothing is to be recovered from the petitioner. In order to show bonafide, the petitioner is also ready to deposit Rs.20,000/- before the Illaqa Magistrate, which would be paid along with interest to the person who ultimately succeeds in trial.

Keeping in view the above said facts and circumstances, the present petition for anticipatory bail is allowed and in the event of arrest, the petitioner shall be released on bail subject to furnishing personal bonds and surety to the satisfaction of Arresting / Investigating Officer. The petitioner shall join the investigation as and when called upon to do so and

shall abide by the conditions as provided under Section 438(2) of Cr.P.C. and the same would be subject to the petitioner depositing an amount of Rs.20,000/- before the Illaqa Magistrate within a period of three weeks from today and the Illaqa Magistrate is directed to deposit the same in fixed deposit and the said amount would be paid at the culmination of the trial to the party who finally succeeds. In case the petitioner is acquitted in the criminal trial or the FIR against the petitioner is quashed, then the said amount along with interest would be paid to the petitioner and in case the petitioner is convicted in the trial, then the said amount along with interest would be paid to the complainant. The order of granting anticipatory bail to the petitioner is also subject to depositing her passport, if any, with the investigating officer, which should be released only in case the petitioner gets permission to go abroad from the Court of competent jurisdiction.

It is made clear, in case, the petitioner fails to join the investigation, then the State would be at liberty to move an application for cancellation of the present anticipatory bail granted to the petitioner.

Nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

(VIKAS BAHL)
JUDGE

January 04, 2022

Davinder Kumar

Whether speaking / reasoned

Yes/No

Whether reportable

Yes/No