

**212 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-58126-2022

Date of decision : 22.12.2022

Dharminder

.....Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Ashish Pal Kaushal, Advocate
for the petitioner.

Mr. Karunesh Kaushal, AAG, Punjab.

Mr. Rishabh Gupta, Advocate
for the complainant.

RAJESH BHARDWAJ, J. (Oral)

Petitioner has approached this Court praying for grant of regular bail in case FIR No.124 dated 23.06.2021, under Sections 498-A, 406, 494 of IPC, registered at Police Station City, Hoshiarpur, District Hoshiarpur.

Succinctly, facts of the case are that the complaint was lodged by the wife of the petitioner alleging therein that she was married with the petitioner in the year 2010 and thereafter, they were blessed with two children. She alleged that her parents spent on the marriage beyond their capacity and gave sufficient dowry. However, her husband and in-laws were not satisfied with the same and thus, on one reason or the other, they started harassing her for demand of dowry. She kept on tolerating the same. However, thereafter, she on 12.09.2013, she was thrown out of the matrimonial home and later on, she came to know that the petitioner-husband has performed second marriage during the subsistence of her

marriage. She thus, found herself cheated and harassed in all these years. She filed the complaint with a request to take legal action against her husband and the in-laws. On the basis of the complaint, formal FIR was registered and the investigation commenced. The investigating agencies recorded the statement of the relatives and arrested the petitioner on 20.07.2022. He approached the Court of learned Additional Sessions Judge, Hoshiarpur praying for grant of bail. However, after hearing counsel for both the sides, learned Additional Sessions Judge, declined the same vide order dated 03.09.2022. Aggrieved by the petitioner is before this Court by way of filing the present petition praying for grant of regular bail.

It has been vehemently contended by counsel for the petitioner that the present dispute is nothing but matrimonial in nature. He has submitted that admittedly the petitioner solemnized marriage with the complainant in the year 2010. However, without any rhyme and reason, she left the matrimonial home in 2013 and since then, she is living separately. He has submitted that the petitioner tried his level best to settle the dispute amicably but the complainant never wanted to reside with the petitioner and thus, she never settled the dispute amicably. He has further submitted that the allegations pertaining to harassment on account of demand of dowry are totally false and frivolous. He has submitted that lodging of the FIR for the offence under Section 494 IPC is also against the statutory provisions as the Court cannot take cognizance of this offence on the basis of the FIR registered. He has submitted that as per the statutory provisions, cognizance for the offence under Section 494 IPC can be taken only on the basis of the complaint

filed by the aggrieved wife. He has submitted that the petitioner is behind bars from 20.07.2022 and in view of Hon'ble Apex Court judgment titled as **Arnesh Kumar vs State of Bihar and another, 2014(3) SCC (Crl.) 449**, custody of the petitioner is totally unwarranted. He has submitted that the petitioner has no criminal antecedents.

Learned counsel for the complainant has vehemently opposed the submissions made by counsel for the petitioner. He, on instructions, has submitted that the petitioner has performed second marriage without taking divorce from the complainant-wife. He has submitted that the petitioner also made an attempt to flee from the country after registration of the FIR without following the due course of law and he was apprehended at the Airport.

Learned State counsel, on the other hand, has submitted that the investigation is complete. Even challan has been filed and the charges have been framed in this case. He, on instructions from ASI Nanak Singh, has affirmed the fact that the petitioner was detained at the Airport. He, as per instructions, submits that the petitioner is not involved in any other case.

I have heard counsel for the parties and perused the record.

Evidently, the present dispute has arisen out of a matrimonial discord. The petitioner is behind bars since 20.07.2022. As per the submissions made before this Court, the petitioner has no criminal antecedents. The investigation already stands completed and the charges are also framed.

This Court would refrain from commenting anything on the merits of the case. The veracity of the allegations would be assessed only

after the conclusion of the trial and on the appreciation of evidence led by both the parties before the trial Court. The trial of the case will take sufficiently long time. However, confining itself to the prayer made for bail, this Court finds that counsel for the petitioner succeeds in making out a case for grant of regular bail. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on her furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate.

The concerned Senior Superintendent of Police, Hoshiarpur would take necessary action for ensuring that the petitioner do not make any other attempt to flee from the country. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

22.12.2022
m. sharma

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No