

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

CRM-M-20131-2021

Date of Decision:- 13.03.2023

SAMEER JAIN AND ANR.

...Petitioner

Vs.

STATE OF PUNJAB

...Respondent

CORAM:-HON'BLE MRS. JUSTICE AMARJOT BHATTI

Present: Mr. S.K. Jain, Advocate for the petitioners.

Mr. Kunwarbir Singh, AAG, Punjab.

Mr. K.S. Nalwa, Advocate for the complainant/respondent
No. 2.

AMARJOT BHATTI, J. (Oral)

The petitioners – Sameer Jain and Sandeep Jain have filed this petition under Section 438 Cr.P.C. for grant of concession of pre arrest bail in FIR No. 43 dated 10.03.2021, under Section 498-A, 354 of IPC, registered at Police Station Women Cell, Ludhiana.

The facts of the case are that the complainant – Vishakha Jain filed written complaint against Sandeep Jain and her husband Sameer Jain for maltreatment in the matrimonial home. It is stated by the complainant that she got married with Sameer Jain on 10.05.1997. Her marriage was performed with great pomp and show and her parents had given dowry beyond their financial status. Out of this marriage, she is having a son and a daughter and both are unmarried. The complainant suffered a lot in the matrimonial home, especially for the last two years. Her husband Sameer Jain and brother-in-law Sandeep Jain used to abuse her and her sister-in-law Ritu Jain without any reason. The family members tried to make them understand but there was no change in their behaviour. She tolerated the

behaviour of accused for the sake of future of their children. The accused no. 1 used to raise dispute whenever she went outside alone or with her husband. The accused no. 2 never raised any objection to the same. After approximately one and a half years of marriage, the accused no. 1 raped her and when she disclosed this fact to her husband i.e. accused no. 2, he did not believe her. The behaviour of accused was very bad as he used to abuse in filthy language and she tolerated his behaviour for the sake of her daughter. She has narrated the incident of cruelty and misbehaviour on the part of accused no. 1 from time to time. The accused no. 2 never tried to stop the acts of cruelty and misbehaviour on the part of accused no. 1. Ultimately, she along with her children and her sister-in-law along with her children left the matrimonial home. The accused persons have withdrawn approximately 4 lac from the respective accounts of complainant and her sister-in-law. Even after their leaving the house, they are being ill-treated, abused and defamed by the accused persons. With these allegations, the present FIR has been registered.

Learned counsel for both the petitioners argued that all the allegations levelled against them are false. The FIR has been lodged after a long period of 25 years from the date of marriage. A false FIR has been registered due to business dispute vide which the complainant and her sister-in-law were served with the legal notice dated 17.03.2021, Annexure P-2, demanding Rs. 1,47,25,597/-. The present FIR has been lodged with false allegations due to vengeance. They have already joined the investigation and are still ready to do so. Therefore, it is prayed that their anticipatory bail application may be allowed.

The bail application is opposed by learned counsel representing the complainant. It is argued that both the petitioners have treated their

wives and all members of the family with cruelty. The complainant and other family members were abused and beaten up. Ultimately, they left the matrimonial home under compelled circumstances. Even now, they defamed the complainant. Therefore, they are not entitled to be concession of anticipatory bail.

Learned counsel representing the State confirmed that the petitioners have joined the investigation and they are not required for any other purpose.

I have gone through the record. The complainant who is the wife of accused Sameer Jain levelled serious allegations of cruelty and maltreatment received by her in the matrimonial home in the hands of both the petitioners. It is alleged that soon after marriage, she was continuously abused and beaten up and for that reason, she along with her children as well as her sister-in-law along with her children left the matrimonial home. However, the petitioners have already joined the investigation. No recovery is to be effected from them. The merits of the case will be decided by the trial Court. Therefore, no purpose would be served by sending the petitioners behind the bars. Therefore, the anticipatory bail application filed by the petitioners – Sameer Jain and Sandeep Jain is allowed. In case of their arrest, they may be released on bail to the satisfaction of Investigating Officer/Arresting Officer, subject to the conditions as enshrined under Section 438(2) Cr.P.C.

The petition is, accordingly, accepted.

13.03.2023

lalit

(AMARJOT BHATTI)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No