

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

207

CRM-M-25198-2022

Date of Decision: 12.01.2023

Lakshay

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr.Vivek Goyal, Advocate
for the petitioner.

Mr. Amish Sharma, Asstt. A.G., Punjab.

Mr. B.D.Sharma, Advocate
for the complainant.

JAGMOHAN BANSAL, J. (Oral)

On 02.06.2022, the following order was passed ;

“It has been contended by learned counsel for the petitioner that the marriage in question took place on 02.05.2021. He further contends that so far as petitioner is concerned, it was his first marriage, however, the complainant was married twice on earlier occasions and thus due to their temperamental differences, rift between the petitioner and the complainant took place. It is further submitted that petitioner is keen to settle the dispute amicably as is evident from the fact that he has also filed a petition under Section 9 of the Hindu Marriage Act, which is pending adjudication. He further submits that after filing of the petition under Section 9 of the HMA, the present FIR has been lodged. He further submits

that the allegations regarding harassment on account of demand of dowry etc. are totally false and frivolous and the petitioner has no criminal antecedents. He relies upon judicial precedent of the Hon'ble Apex Court in Arnesh Kumar vs State of Bihar and another, 2014(3) SCC (Crl.) 449 and submits that in view of the above mentioned facts, no case for custodial interrogation is made out, however, petitioner is ready to join the investigation and abide by all the terms and conditions of the anticipatory bail if this Court considers his request for granting the same.

Issue notice of motion for 14.10.2022.

On the asking of the Court, Ms.Sakshi Bakshi, AAG, Punjab, who is present in Court, accepts notice on behalf of the State, whereas Mr.B.D.Sharma, Advocate, has put in appearance on behalf of the complainant -wife and he has opposed the contentions raised by learned counsel for the petitioner. He submits that the complainant has been given beatings abruptly and she has been harassed for demand of dowry. However, keeping aside the merits of the case, he is also of the opinion that the marriage is hardly one year old and the parties be given an opportunity to settle the dispute amicably by referring them to Mediation and Conciliation Centre of this Court.

As both the parties are ad idem that the matter be referred to mediation Centre, they are directed to appear before the Mediation and Conciliation Centre of this Court on 14.06.2022 at 11.00 A.M. for making an effort to amicably settle the dispute.

Petitioner is also directed to pay

Rs.25,000/- as litigation expenses to complainant-wife on her first appearance before the Mediation Centre.

In the meanwhile, in the event of arrest, the petitioner shall be released on interim bail subject to the satisfaction of the Arresting Officer/Investigating Officer. The petitioner shall join investigation before the Investigating Agency/Officer. He shall abide by the following conditions as envisaged under Section 438(2) Cr.P.C.:-

- (i) That the petitioner shall make himself available for interrogation by a police officer as and when required to do so;*
- (ii) That the petitioner shall not directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;*
- (iii) That the petitioner shall not leave India without prior permission of the Court.”*
State is directed to file status report on or before the next date of hearing. ”

The matter came up for consideration before this Court on 14.10.2022 and the following order was passed :

“Status report by way of affidavit of Roshan Lal, PPS, Deputy Superintendent of Police, EOW-cum-Sub Division Adampur, District Jalandhar (Rural) dated 8.10.2022 filed in Court is taken on record.

Learned counsel for the petitioner submits that in pursuance to the order dated 2.6.2022, the

petitioner has joined the investigation. He has submitted that the mediation proceedings did not materialize, however, the same are going on at Karnal and Jalandhar as well.

Learned counsel for the complainant affirms the fact that the mediation proceedings are going on between the parties.

Learned State counsel on instructions from ASI Jaspal Singh submits that the petitioner is required for further investigation.

Let the petitioner join the investigation on 17.10.2022 at 10:00 am in terms of the order dated 2.6.2022.

Adjourned to 12.1.2023.

Interim order to continue.”

Learned counsel for the petitioner submits that as noted in the order dated 21.05.2022 passed by ASJ, Jalandhar, the petitioner has handed over 04 gold rings and two pairs of gold earrings to the complainant on 14.05.2022. He further submits that whatsoever articles given at the time of marriage have already been returned to the complainant.

Learned State counsel as well as counsel for the complainant would submit that though the petitioner has joined investigation, yet recovery of *istridhan* has not been effected.

The petitioner has admittedly joined the investigation on 17.10.2022 and only contention of the State as well as counsel for the complainant is that recovery of *istridhan* is still pending. The Hon'ble Supreme Court in ***Arnesh Kumar V. State of Bihar (2014) 8 SCC 273*** as well as ***Social Action Reform Forum For Manav Adhikar and Anr. Vs. Union of India and others (2018) 10 SCC 443*** has held that bail cannot be

denied on the ground of recovery of dowry articles.

In view of the fact that the petitioner has joined the investigation and he has already returned articles which as per him were with him, the petition is allowed and the interim bail granted to the petitioner vide order dated 02.06.2022 is made absolute subject to the conditions envisaged under Section 438(2) of Cr.P.C.

If the petitioner or his family members/associates make any attempt to threat/intimidate the witnesses in the present case, the State would be at liberty to move an application for cancellation of bail granted by this order.

(JAGMOHAN BANSAL)
JUDGE

12.01.2023
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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>