

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M No.34385 of 2023
Date of Decision: 13.09.2023

Eshant Kataria

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Argued by:- Mr. Anmol Rattan Sidhu, Senior Advocate,
Mr. Kanishk Sarup, Advocate,
for the petitioner.

Mr. Virat Rana, AAG, Punjab,
for respondent No.1-State.

Mr. Nikhil Sabharwal, Advocate,
for respondent No.2.

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MEENAKSHI I. MEHTA, J.

By way of the instant petition, the petitioner has sought the relief of pre-arrest/anticipatory bail in the criminal case arisen out of the FIR bearing No.149 dated 13.06.2023 as registered at Police Station City, Kapurthala, District Kapurthala, under Section 498-A IPC.

2. Shorn and short of unnecessary details, the allegations levelled by respondent No.2-complainant in her complaint, culminating in the registration of the subject FIR, are that her marriage was solemnized with the petitioner with great pomp and show and her parents had spent a huge amount on the same but however, the petitioner and his family members were not satisfied with the dowry given to her and they had been subjecting

her to cruelty for bringing insufficient dowry and also for demanding more dowry and therefore, she was constrained to live in her parental home.

3. Status-Report has already been filed on behalf of respondent No.1-State by way of the affidavit of the Deputy Superintendent of Police, Crime against Women and Children, Sub-Division, Kapurthala and in its para No.5, it has categorically been deposed that during the inquiry, all other persons, except the petitioner, were found to be innocent.

4. I have heard learned Senior counsel for the petitioner as well as learned State counsel and learned counsel for respondent No.2 in the present petition and have also perused the file thoroughly.

5. Learned Senior counsel for the petitioner has referred to Annexure P-3 (Colly at pages No.39 to 44 in the paper-book), i.e the copies of the pages of the Diary, as stated to have been maintained by respondent No.2 and he has also submitted the copy of another page of the said Diary, bearing the date 30th May, 2020, in the Court during the course of the arguments and he has contended that from the perusal of the contents of these documents, it transpires that respondent No.2 is the follower of a particular religious Sect since the year 2008 and in the pursuit of following the same, she has been practising celibacy and has, thus, never ever been inclined to fulfil her marital obligations towards the petitioner-husband and by doing so, she has, rather, been subjecting him (petitioner) to cruelty and moreover, no recovery is to be affected from the petitioner and even otherwise, the offence under Section 498-A IPC is punishable with the imprisonment up to three years and fine, only and to add to it, the petitioner is ready and willing to join in the investigation as and when so required by

the Investigating Agency and he is also not involved in any other criminal case and in these circumstances, he deserves the relief, as prayed for in the instant petition.

6. However, learned counsel for respondent No.2-complainant has referred to the transcript of the audio-recording of the conversation, purported to have taken place between the petitioner and respondent No.2 (as submitted by him in the Court, *sans* the signatures of the person who might have prepared the same) and he as well as learned State counsel have pointed out that a bare reading thereof, reveals that the petitioner had used the abusive language against respondent No.2 and they have argued that this document, in itself, does suffice to *prima-facie* show that he (petitioner) had been subjecting the respondent-wife to cruelty and it being so, this petition be dismissed.

7. The authenticity/genuineness of Annexure P-3 (Colly) and the page dated 30.05.2020 of the Diary, as stated to have been penned down by respondent No.2-wife and of the transcript of the afore-said conversation and also the effect of the same on the merits of the criminal case under reference, can and shall be looked into and adjudicated upon, by the trial Court at the appropriate stage, after appreciating and evaluating the evidence that may be led on the record during the course of the trial and the same cannot be ascertained/determined while deciding the present bail petition and rather, at the moment, the fact remains that there is nothing in the Status-Report to suggest or infer that the custodial interrogation of the petitioner is required for affecting any recovery from him and also to show his involvement/complicity in any other criminal case.

8. As a sequel to the fore-going discussion, it follows that the instant petition deserves to be allowed. Resultantly, the same is hereby allowed and the petitioner named Eshant Kataria is granted the relief of pre-arrest/anticipatory bail subject to his furnishing the requisite personal and surety bonds to the satisfaction of the Investigating/Arresting Officer.

9 However, he shall strictly abide by the following conditions as laid down under Section 438(2) Cr.P.C.:-

- “(i) *he shall make himself available for interrogation by a police officer as and when required;*
- (ii) he shall not, directly or indirectly, make any inducement, threat and 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) he shall not leave India without the previous permission of the Court.”*

10. It is further clarified that nothing contained here-in-before shall be construed to be an expression of the opinion of this Court on the merits of the case, arisen out of the subject FIR.

13.09.2023
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(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: Yes
Whether Reportable: No