

**209-1 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-43111-2023

Date of decision: 09.10.2023

SUBHASH CHAND AND ANR.

...PETITIONERS

VERSUS

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr.Birinder Pal, Advocate for the petitioner.

Mr. Ranvir Singh Arya, Addl. AG, Haryana.

Mr. Vijay Sangwan, Advocate for the complainant.

VIVEK PURI,J. (ORAL)

1. On 31.08.2023, the following order was passed:-

“1. The petitioners are seeking anticipatory bail in the case bearing FIR No.57 dated 02.06.2023 under Sections 323/328/34/354- A/376/406/498-A/506 and 511 IPC (Sections 328/354-A/376/511 IPC were deleted during investigation) registered at Police Station Women, Narnaul, District Mahendergarh.

2. Learned counsel for the petitioners contend that the marriage of petitioner No.2 was solemnized with the complainant on 05.02.2022. The allegations against petitioner No.1 are with regard to sexual harassment. However, during the course of investigation, the offence under Sections 328/354-A/376 and 511 IPC have been deleted. The primary allegations against petitioner No.2 are with regard to cruelty and misappropriation of articles of istridhan. The complainant had left the matrimonial house in January, 2023 alongwith her parents on the pretext of attending marriage of her relative in the parental house and had carried articles, jewellery etc. with her. The petitioner No.2 has instituted a petition under Section 13 of the Hindu Marriage Act for dissolution of marriage on 02.02.2023 and the present FIR has been lodged subsequent to the said petition. Moreover, the petitioners are ready and willing to amicably settle the matrimonial dispute. The mother of petitioner No.2 has been granted interim bail in terms of the order dated 26.07.2023 passed in CRM-M-35722-2023.

3. On the oral request of learned counsel for the petitioners, complainant i.e. Muskan wife of Nitin Kumar Rohila, D/o Sh. Joginder Kumar, resident of House No. 249, Sector-1, Part-

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1, HUDA, Tehsil Narnaul, is impleaded as respondent No.2. Registry to carry out the necessary correction in the memo of parties.

4. Notice of motion.

5. Mr. Surinder Kumar Dagar, DAG, Haryana, accepts notice on behalf of respondent No.1-State.

6. Mr. Vijay Sangwan, Advocate, has put appearance on behalf of the complainant/respondent No.2. He has controverted the allegations as sought to be put forth on behalf of the petitioners. However, he contends that respondent No.2 is not averse to exploring the possibility of amicable settlement.

7. The parties are directed to appear before the Mediation and Conciliation Centre of this Court on 20.09.2023.

8. The petitioners shall also pay a sum of Rs.50,000/- to the complainant/respondent No.2 on her appearance before the Mediator to facilitate her presence and participation during the course of mediation proceedings.

9. The report be awaited for 09.10.2023.

10. To be heard alongwith CRM-M-35722-2023.

11. In the meanwhile, the petitioners are directed to join investigation and in the event of their arrest, they shall be released on interim bail to the satisfaction of the Investigating Officer/Arresting Officer subject to the conditions as envisaged under Section 438 (2) of Code of Criminal Procedure.”

2. As per the report received from the mediator, despite best efforts, the parties could not arrive at an amicable settlement.

3. Learned counsel for the petitioner contends that in pursuance of interim directions, the petitioners have joined the investigation but are not in the possession of any article of *Istri Dhan*.

4. On instructions from ASI Rakesh, learned State counsel submits that the petitioners have joined the investigation and their custodial interrogation is not required but the recovery of jewellery items is yet to be effected.

5. Be that as it may, the controversy as to whether the articles of *Istri Dhan* were entrusted to the petitioners and have been misappropriated by them will be a debatable and moot point during the course of trial. The petitioners have joined the

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investigation and their custodial interrogation is not required. As such, sufficient exceptional circumstances are made out to extend the concession of pre-arrest bail to the petitioners.

6. In view of the aforesaid submissions, the order dated 31.08.2023, granting interim bail to the petitioner is made absolute.

7. The petition is allowed.

09.10.2023

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(VIVEK PURI)
JUDGE

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