

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

202/1

CRM-M-49935-2022

Date of Decision: 02.06.2023

Praveen Malethiya

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Naresh Jain, Advocate for the petitioner

Ms. Guramrit Kaur, DAG, Punjab
(assisted by ASI Beant Singh)

Mr. R.K. Girdhar, Advocate for the complainant

JAGMOHAN BANSAL, J. (ORAL)

1. On 29.10.2022, the following order was passed:-

“Petitioner has approached this Court praying for grant of anticipatory bail to the petitioner in case FIR No.142 dated 03.10.2022, under Sections 498-A, 406, 506 of IPC and Section 4 of Dowry Prohibition Act, 1961, registered at Police Station City Fazilka, District Fazilka.

It has been contended by counsel for the petitioner that petitioner was married with the complainant on 20th February, 2018. However, no child is born out of the wedlock. He also submits that the complainant-wife is suffering from OCD i.e. Obsessive Compulsive Disorder and she was being granted the best of the treatment, however, despite that, she left the matrimonial home on 4th March, 2022 and thereafter, the present FIR was lodged on the

basis of false and frivolous allegations. He has submitted that there were allegations pertaining to demand of dowry and beating the complainant resulting in miscarriage but the same were not substantiated in the inquiry conducted and hence, the offence under Section 313 IPC is also not there. He submits that the inquiry was conducted by the Superintendent of Police, Fazilka and the allegations made were found to be false. However, thereafter another inquiry was conducted on the basis of which, the present FIR is lodged. He submits that though he has filed the petition under Section 13 of the Hindu Marriage Act but the petitioner is still ready to settle the dispute amicably either way if the matter is referred to the Mediation Centre. He has relied 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 the petitioner has no criminal antecedents and in view of the above mentioned facts, no case for custodial interrogation of the petitioner is made out. However, petitioner is ready to join investigation.

On asking of the Court, Mr. Sandeep Kumar, DAG, Punjab accepts notice on behalf of the respondent-State. Mr. Rajesh Kumar Girdhar, Advocate accepts notice on behalf of the complainant. He has opposed the submissions made by counsel for the petitioner and has submitted that it is the cruelty caused by the petitioner which compelled the complainant to leave matrimonial home. He submits that the complainant has also filed the petition under Section 9 of the Hindu Marriage Act praying for

Restitution of Conjugal Rights which would show that the complainant is ready to rehabilitate the petitioner. However, the petitioner has filed the petition under Section 13 of Hindu Marriage Act for Dissolution of Marriage. He is also of the opinion that the matter be referred to the Mediation Centre by granting opportunity to the parties to explore the possibility of amicable settlement.

As both the parties are ad idem, the Court is of the opinion that the parties be referred to the Mediation Centre for exploring the possibility of amicable settlement. Accordingly, the parties are directed to appear before the Mediation Centre at Fazilka on 05.11.2022 for resolving the dispute amicably.

The petitioner would pay litigation expenses of Rs.25,000/- to the complainant on her first appearance before the Mediation Centre.

List on 16.02.2023.

In the meantime, 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.”*

2. Learned counsels for the parties are *ad idem* that petitioner and complainant have entered into compromise dated 30.05.2023 and they have amicably settled their all disputes. As per compromise, a divorce petition under Section 13-B of Hindu Marriage Act, 1955 would be filed before Family Court at Fazilka. Both the parties shall abide by terms and conditions of the compromise deed.

3. Learned State counsel, on instructions from ASI Beant Singh, submits that petitioner has joined investigation and no custodial interrogation is required.

4. In view of above facts and circumstances, the petition is allowed and the interim bail granted to the petitioner vide order dated 29.10.2022 is made absolute subject to the conditions envisaged under Section 438(2) of Cr.P.C.

5. If the petitioner or her 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.

6. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and Trial Court shall proceed without being prejudiced by observations of this Court.

(JAGMOHAN BANSAL)
JUDGE

02.06.2023
Mohit Kumar

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>