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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-259-2022 (O&M)

Date of Decision: 04.04.2024

KOMAL DUTTA

.....PETITIONER

Vs.

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Ankush Bansal, Advocate,
for the petitioner.

Mr. Kirpal Singh Thakur, A.A.G., Haryana.

HARPREET KAUR JEEWAN J. (ORAL)

1. The instant petition has been filed under Section 438 Cr.P.C for grant of anticipatory bail to the petitioner in case FIR No. 595 dated 01.11.2021 under Sections 498-A, 406, 323, 506 and 313 of the IPC read with Section 34 thereof, registered at Police Station City, District Sirsa.
2. As per the order dated 07.01.2022 passed by the co-ordinate Bench of this Court, after noticing the following contentions, the parties were directed to appear before the Mediation and Conciliation Centre of this Court on 07.02.2022 for exploring the possibility of an amicable settlement:-

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“Learned counsel for the petitioner inter alia submits that the petitioner has been married to the complainant for almost 17 years and the parties are blessed with a son who is studying in class 10. He submits that the only dispute between the parties was on account of the fact that the complainant did not wish to live in a joint family set up and wanted to live in an

independent house. Learned counsel further contends that even the allegations that the complainant's pregnancy was forcibly aborted at the instance of the petitioner was nothing but a bundle of lies as it was not supported by any medical evidence. Learned counsel submits that since the parties have been married for almost 17 years, he would not be averse to still exploring the possibility of an amicable settlement/reconciliation, moreso, since there is a child also out of the said marriage."

XXXX XXXX XXXX XXXX

3. However, as noted in the order dated 11.07.2022, the mediation failed. Thereafter, again as per the order dated 10.11.2022, the matter was referred to the Mediation and Conciliation Centre after the co-ordinate Bench interacted with the counsel for the parties and they sought an opportunity to explore the possibility of amicable compromise. However, again as per the order dated 19.05.2023, the mediation failed but the arrest of the petitioner was stayed subject to joining of investigation till the next date of hearing.

4. Further, as per the order dated 24.07.2023, the parties were directed to remain present in the Court and petitioner was further directed to join the investigation and cooperate with the investigating agency.

5. As per the order dated 13.09.2023, the counsel for the complainant sought an accommodation to get instructions from the complainant and the following order was passed:-

"Vide order dated 24.07.2023 the parties were directed to remain present in Court. Pursuant to the said order, the petitioner is present in Court. However, the complainant is not present. Learned counsel for the complainant states that the complainant could not

come present as her father suffered a paralytic stroke. Learned counsel for the complainant has, however, stated that no recovery has been made till date.

Learned State counsel, on instructions from ASI Sandeep, has stated that no supporting bills have been given for the list of articles which has been supplied to the Investigating Officer. The remaining allegations are qua cash having been handed over to the petitioner qua which there is no proof in the shape of any amount having been withdrawn from the account of the complainant or her family member.

Learned counsel for the complainant seeks some time to get his instructions.

List on 04.12.2023.

Meanwhile, interim order to continue.”

6. Learned State counsel on instructions from ASI Sandeep Kumar, as well as, while referring the status report dated 22.07.2023 filed by way of an affidavit of Sh. Ajaib Singh, HPS, Deputy Superintendent of Police (Head Quarter), Sirsa, confirmed that the petitioner has joined the investigation on 23.06.2023 in compliance of the orders passed by this Court and also contends that his further custodial interrogation is not required.

7. It is further contended in paragraphs No. 6 and 7 of the aforesaid status report that when the complainant had returned to her parental home, she had taken away all jewellery and also the gold chain which was given to the petitioner at the time of marriage, with her. No dowry articles have been got recovered from the petitioner. It is also contended in the status report that except the above, no other cash or other jewellery was given to the petitioner.

8. The allegations of the complainant regarding entrustment of dowry articles and cruelty and counter allegations of the petitioner are matter of trial. The petitioner has already joined the investigation. The process of mediation has been taken twice which resulted in failure of settlement.

9. Keeping in view these circumstances, the present petition is allowed. The orders dated 19.05.2023 and 24.07.2023 passed by the co-ordinate Benches of this Court, granting interim bail to the petitioner are made absolute, subject to the conditions laid down under Section 438(2) Cr.P.C.

10. However, it is made clear that nothing expressed hereinabove would be construed to be an expression of opinion on merits of the case.

11. Liberty is reserved in favour of the State/complainant to move for cancellation/recalling of the order in case the petitioner violates any condition stipulated under Section 438 (2) Cr.P.C., or upon showing any other sufficient cause.

12. Pending miscellaneous application (s), if any, shall also stand disposed of.

April 04, 2024
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(HARPREET KAUR JEEWAN)
JUDGE

Whether Speaking	Yes/No
Whether reportable	Yes/No