



206 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-2354-2024
Date of decision: 18th May, 2024

Sagar Gupta
...Petitioner(s)
Versus
State of U.T. Chandigarh and another
...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Mukesh Rao, Advocate for the petitioner.
Mr. Manish Bansal, Addl. P.P., U.T., Chandigarh.
Respondent in person with Dr. Abhinay Goel, Advocate.

MANISHA BATRA, J (ORAL):-

The present petition has been filed under Section 438 of Cr.P.C.
seeking anticipatory bail in FIR mentioned below:-

FIR No.	Dated	Police Station	Sections
74	17.12.2023	Women Police Station, Chandigarh	406 and 498-A of IPC, 1860

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on the basis of a written complaint filed by the complainant Isha Goyal alleging therein that she was married with the petitioner on 23.04.2022, according to Hindu rites and rituals in India. Their marriage was registered in USA on 23.06.2022 as in February, 2023, she got H1B visa from USA Government and had been



working there. She met the petitioner through a dating app on 11.07.2021. The petitioner was also working in USA and by making many false allurements and promise to her, he had proposed for marriage and after making consultation with her parents, she had agreed to the same. Their roka ceremony was performed by their family members in September, 2021 while both of them were in USA at that time. Her parents in India had incurred expenses to the tune of Rs. 3,40,200/- and had given clothing, jewellery sweets and gifts to the family members and relatives of the petitioner. The petitioner and herself had come to India for their marriage on 26.03.2022. During the intervening period, the parents of the petitioner had raised demand of gold, cash and dowry articles and her parents had fulfilled the said demand after their reaching India, the family of the petitioner had insisted to organize a ceremony to greet the petitioner in Delhi and at that time also, the parents of the petitioner were made to spend money for booking of hotel and by way of giving gold ornaments as well as cash to the petitioner. It was alleged that some days prior to the marriage i.e. on 04.04.2022, when the family members of the petitioner visited her parental house for the purpose of attending a Jagran organized by her parents, they raised demands for getting the marriage performed in a lavish manner, cash amount of Rs. 11,00,000/- and gold and diamond jewellery for the family members as well as relatives of the petitioner, besides several other demands. The parents of the petitioner were under shock but were left with no alternative and they spent an amount of more than Rs. 47,00,000/- in the



marriage ceremony. Thereafter, also an amount of Rs. 2,36,100/- approximately was spent by her parents by giving gold ornaments and cash to the petitioner. They had planned to go to honeymoon and her parents in-laws asked her to handover them all her ornaments and cash received by her as shagun and otherwise to them with promise to return the same, after she come back. They had gone to Goa, wherein she was physically and sexually tortured by the petitioner and he even prepared her objectionable videos without her consent and knowledge. On her coming back from honeymoon, she requested the petitioner and his family members to return her jewellery and cash but they bluntly refused to do so. For the sake of her matrimonial life, she did not disclose about these facts to anyone. She along with the petitioner left for USA on 01.05.2022 and at that time also, ornaments and cash was given by her parents to the petitioner who handed over the same to his own parents. She alleged that after marriage, petitioner started raising demand of a flat at New Delhi and a luxurious car from her parents through her. She was being pressurized to get the said demand fulfilled and on 03.06.2022, she was extended beatings and sexually harassed by the petitioner who thereafter locked her in a room overnight without providing any meals or even water, while reiterating his demand and extending threats to kill her, if his demand was not complied with. She alleged that as her parents had already spent an amount of more than Rs. 1,12,00,000/- in her marriage, therefore, she refused to ask her parents for meeting with the demands as raised by the petitioner. Nonetheless her parents had spent



money and gave cash amount of about Rs. 1,66,600/- to the parents of the petitioner at the time of *nimani ekadshi* occasion, as per the demand of her parents in-laws. She alleged that his demands kept on increasing and her parents and herself were pressurized to fulfill the same. On 23.12.2022, the family members of the petitioner also visited USA. They also joined hands with the petitioner. She was extended beatings by them. They also took away all her educational qualification certificates and other important documents. She alleged that on 14.01.2023, all of them forcibly took her back to India on the pretext that her mother was not well at Chandigarh and she was not even allowed to make a call to her mother. She alleged that on reaching at her matrimonial house, her father-in-law even tried to outrage her modesty when she was alone; and on her raising objection, he threatened to make then that her pictures and videos viral upon social media and it was only that she came to know that the petitioner had taken her objectionable pictures and videos at the time of their honeymoon.

3. The complainant further alleged that the petitioner even hatched a conspiracy to set herself ablaze by keeping the burner of LPG gas cylinder on, in their kitchen and by asking her to prepare tea. She was assaulted by the family members of the petitioner and somehow managed to release herself. She warned the petitioner and his family members to complaint the matter to the police, but in a very diplomatic way, they called a taxi and sent her to her parental house. When she asked them to handover her documents, certificates, jewellery so that she could take the same to Chandigarh, they



straight way refused to return the same. Apprehending that the petitioner could leave her back in India, she took appointment from the USA embassy for stamping for H4 Visa on 06.02.2022, so that she could go back to USA with her husband. When she requested the petitioner and his family members to give her documents back, they refused. She alleged that the petitioner took hold of all her household articles and documents relating to visa etc. from the residence in USA in her absence. she had even made an online complaint, which was under investigation. The petitioner even got cancelled the lease of the apartment, wherein they were staying in USA without giving any information to her and she came to know about this fact only on receiving an e-mail from lease office raising demand of Rs. 8,56,852/- approximately. The petitioner agreed to pay half of the above said amount only. She alleged that her parents and herself made efforts to resolve the matter to save her matrimonial life but their efforts turned futile. Therefore, she prayed for taking action against the culprits. Initially, a case under Section 406 and 498-A of IPC was registered. After registration of FIR, investigation proceedings have been initiated and the same are under way. The petitioner had moved an application for pre-arrest bail before the Court of learned Additional Sessions Judge, Chandigarh which was dismissed vide order dated 03.01.2024.

3. It is submitted in the petition and it has been vehemently argued by learned counsel for the petitioner that the petitioner has been falsely implicated in this case by levelling omnibus allegations and by concocting a



false story. The petitioner stayed at her matrimonial house in India only for a period of three days after her marriage and had gone to USA. She returned to India with the petitioner on 14.01.2023 and went to her parental house on 18.01.2023 and thereafter refused to return to her matrimonial home in India. The allegations that parents of the petitioner has raised demand of cash or gold jewellery etc. even before the marriage are palpably false on the face of the same, as if such, demands has actually been raised by them then it was open for the complainant to deny performance of marriage with him but no such course was adopted. She had levelled allegations of outraging of her modesty against her father-in-law committing acts of carnal intercourse against the order of nature by the petitioner, making attempt to kill her and extending threats to her as well as cheating her in her complaint but after conducting inquiry into the matter, FIR has been registered under Section 406 and 498-A of IPC only which also shows the falsity of the version in the complaint.

4. Learned counsel for the petitioner has further argued that the complainant concealed the fact that infact, it was a case of love marriage and prior to their marriage, the petitioner and the complainant had even lived in live-in relationship in USA. The complainant never wanted to reside with her in-laws in her matrimonial house and wanted to reside with her parents. She had got lodged FIR only to exert pressure upon the petitioner to part ways from his family. There was whatsapp conversations between the complainant and sister of the petitioner showing that the complainant was



very happy with the meeting of both the families before their wedding and at the occasion of Diwali. No demand as alleged by the complainant has been raised by family members of the petitioner. He argued that undoubtedly some gold jewellery in the forms of gifts had been given at the time of roka ceremony, engagement ceremony and marriage ceremony to the petitioner and his family members but no demand for giving the same had been raised by them. No *istridhan* including ornaments belonging to the complainant had been handed over to parents of the petitioner or himself, nor the same was retained by them. It is also argued that all the educational certificates of the complainant were also with her and other documents belonging to her were in her own custody and she has been levelling false allegations qua the same being with the petitioner. It is further argued that infact, the FIR in this case was a counter blast to the petition filed by the petitioner seeking divorce from the complainant on 09.02.2023, notice of which was issued to the complainant for 28.07.2023. It is further argued that the petitioner has joined the investigation. His custodial interrogation is not required. No recovery is to be effected from him and therefore, it is urged that the petition deserves to be allowed and the order of grant of interim bail petition deserves to be made absolute.

5. Status report has been filed by respondent No.1-State, it is submitted therein and argued by learned State counsel that though the petitioner has joined the investigation but he did not co-operate during the investigation and did not facilitate recovery of dowry articles. There is



apprehension of his running back to USA, if extended benefit of pre-arrest bail and therefore, it is argued that the petition does not deserve to be allowed.

6. Learned counsel for respondent No.2-complainant has vehemently argued that there are serious and specific allegations against the petitioner and his family members not only of subjecting the complainant to cruelty on account of making demand of money etc. repeatedly, despite the fact that all their demands as raised by them till the date of marriage of the complainant with petitioner had been met with. The photographs placed on record by respondent No.2 as Annexure R-1 to R-35 show that huge amount of money in cash and in the form of gold and diamond jewellery had been given not only to the petitioner but his family members, however, they have misappropriated the same and converted the same to their own use and had not returned the *istridhan* belonging to the complainant back to her. Learned counsel has drawn the attention of this Court to the photocopies of the bills Annexure R-22 to R-40 showing purchases of gold ornaments being made during the year 2016 to 2019 and has submitted that the jewellery purchased vide these bills had been handed over to the petitioner and his family members and it is argued that all the educational certificates and documents relating to visa of the complainant as well as her *istridhan* have been retained by the petitioner and his family members and for the purpose of recovery of the same, his custodial interrogation is required. With these broad submissions, he urged that the petition does not deserve to be allowed.



7. I have heard learned counsel for the parties at considerable length and have gone through the documents placed on record.

8. As per the allegations, the petitioner as well as family members have subjected the complainant to cruelty on account of demand of dowry and has also misappropriated the *istridhan* which was entrusted to them at the time of marriage and even thereafter and have also refused to return the cash amount which was given to the petitioner at the time of their engagement and marriage ceremonies. No doubt, the photographs produced on record, show the same gold ornaments being given to the petitioner at the time of marriage and some exchange of silver/gold coins and other gifts is also being shown from these photographs. However, no inference can be drawn at this stage that these ornaments were given as per the demand made by the petitioner or his family members or otherwise. It is well settled proposition of law that the gifts given at the time of marriage do not fall in the definition of dowry and it is a question of debate as to whether, the gold ornaments or other articles given at the time of marriage of the complainant with the petitioner to his family members as gifts fall within that definition or not. Though, the complainant has levelled several allegations against the petitioner, however, since he has already joined the investigation and has taken stand that all the jewellery articles belonging to the complainant and documents had already been taken by her along with her, when she had gone to her parental house and there was no entrustment of any such articles which was liable to be recovered from them. The well settled proposition of

law is that the proceedings under Section 406 and 498 of IPC are not meant for the recovery of dowry articles. The complainant can certainly file a civil suit for recovery of said articles, if so advised. Reliance in this context can be placed upon ‘*Pritpal Singh Vs. State of Punjab and another 2014(5) RCR (Criminal) 771*’ wherein it was observed so. Keeping in view the discussion as made above, I am of the considered opinion that no useful purpose would be served by detaining the petitioner in custody, therefore, the petition is allowed and the order dated 16.01.2024, thereby directing the petitioner to be released on interim bail is ordered to be made absolute, subject to his furnishing personal surety bonds to the satisfaction of learned Arresting Officer/ Investigating Officer and further subject to the conditions that he will not leave the country without permission of the trial Court and that his passport be deposited before the learned trial Court and also subject to compliance of other terms and conditions as envisaged under Section 438(2) of Cr.P.C.

9. It is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

[MANISHA BATRA]
JUDGE

18th May, 2024
Parveen Sharma

1. Whether speaking/ reasoned

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Yes
2. Whether reportable

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Yes