

CRM-M-7714-2024

2024:PHHC:073166



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**207 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CRM-M-7714-2024

Date of decision: 22nd May, 2024

Mandeep Singh

...Petitioner(s)

Versus

State of Punjab and another

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Kanwar Goyal, Advocate for the petitioner.
Ms. Ruchika Sabherwal, Sr. DAG, Punjab.
Mr. Durga Dutt Sharma, Advocate for respondent No.2.

MANISHA BATRA, J (ORAL):-

Through the instant petition under Section 438 of Code of Criminal Procedure, 1973, the petitioner seeks anticipatory bail in case FIR No.205 dated 20.12.2023 registered under Sections 498-A, 323 and 34 of Indian Penal Code, 1860 and Sections 354-B and 406 of IPC were added later on vide GD No. 38 dated 02.01.2024, at Police Station City, Sri Muktsar Sahib.

2. Vide order dated 14.02.2024 passed by this Court, the petitioner was released on interim bail and was directed to join investigation. The following order was passed by this Court on 14.02.2024:-

“The present petition has been filed by the petitioner seeking pre arrest bail in case arising out of FIR No.205 dated 20.12.2023 registered under Sections 498A, 323 and 34 of IPC



and Section 354-B and 406 of IPC were added later on vide GD No.38 dated 02.01.2024 at Police Station City, Sri Muktsar Sahib on the basis of statement recorded by the complainant alleging therein that she was being harassed by the present petitioner who is her husband as well as his other family members on account of demand of dowry soon after her marriage with the petitioner which had taken place on 30.03.2018. It is also alleged that the petitioner used to extend beatings to her while raising demand of a car. She was sent to her parental house 5 times and on requests made by her family members, she was taken back to her matrimonial house. The complainant and her family members have tried to prevail good sense upon the petitioner and his family members but they did not mend their ways. On 17.12.2023, while returning from a wedding function, the petitioner and his father again raised demand for a big vehicle from the complainant. The petitioner misbehaved with her while reaching home. He dropped her clothing and did unnatural sex with her. Her hair were pulled by him and she was severally beaten up. Even her father-in-law had hit her and she was allowed to wear her clothing in the presence of her father-in-law subsequently. She had informed about the incident to her brother who advised her to make a call to the Police and then family members of the complainant had reached at her house and on seeing them, the petitioner again extended beatings to her. She was got released by the neighbourers. Police had also reached at the spot, in the meanwhile, she was admitted to the hospital. She alleged that she was subjected to cruelty by members of her entire in-laws family on account of demand of dowry.

It is inter alia argued by learned counsel for the petitioner that the allegations as levelled by the complainant



have been found to be false and during the inquiry, the allegations as to subjecting her to cruelty on account of demand of dowry have been falsely levelled against him and his family members and in fact, this is a matter of matrimonial discord as on 17.12.2023, the family members of the complainant had reached petitioner's house and had extended beatings to him as well as his father and both of them were medically examined. Neither any demand of dowry had been raised by them. The Police had conducted inquiry in the matter and the allegations as made by the complainant qua her being subjected to act of carnal intercourse against the course of nature was not found to be substantiated. It is submitted that custodial interrogation of the petitioner is not required. He is ready to join the investigation. The injuries which were sustained by the victim were on account of scuffle which had taken place on the night of 17.12.2023. There is delay of 3 days in lodging of the FIR.

Learned State counsel who appeared on advance notice of the petition, seeks time to file status report in the matter.

At this stage, Mr. Vishal Khatri, Advocate appears on behalf of the complainant and has filed his memo of appearance. He argued that the allegations as levelled in the FIR are not false and in fact the victim was beaten to such an extent that she had remained admitted in the hospital for a period of 10 days. He further submitted that even the 1 ½ years old child of the complainant had been snatched by the petitioner and his family members from her. He seeks time to file his vakalatnama as well as reply to the petition.

Adjourned to 22.04.2024.

In the meantime, the petitioner is directed to appear before the Investigating/Arresting Officer to join investigation



within one week or as and when subsequently required thereafter. In the event of his arrest, the Investigating/Arresting Officer shall release the petitioner on interim bail on furnishing personal/surety bonds to his/her satisfaction. The petitioner shall also abide by the conditions as envisaged under Section 438(2) of Cr.P.C.”

3. Status report had been filed by the respondent-State, as per which, the petitioner had joined investigation 19.02.2024 but the entire streedhan of the complainant was not got recovered from him and his custodial interrogation was required to recover the same. Respondent No.2-complainant has also filed reply, as per which, the petitioner and his family members had caused injuries to the complainant, her father and brother on 17.12.2023. She had sustained injuries and even remained admitted in the hospital till 23.12.2023. she had not even been allowed to see her children and her streedhan had not been returned. Learned State counsel assisted by learned counsel for the complainant has argued that since neither recovery of the dowry articles has been got effected from the petitioner and since there are specific allegations against him qua subjecting the complainant to cruelty on account of demand of dowry, therefore, he does not deserve to be extended benefit of pre-arrest bail.

4. The petitioner has joined the investigation on 19.02.2024. The respondent No.2 has placed on record copy of her MLR, which shows that simple injuries were sustained to her on 17.12.2023. Learned State counsel has submitted that all household articles given by respondent No.2 had been recovered. No jewellery could be recovered as no bills have been produced.



Mere non recovery of some disputed dowry articles cannot by itself be a ground for denial of bail as has also been observed by the Delhi High Court in case titled as ‘*Jagdish Thakkar vs. State of Delhi*’, 1992 (3) CCR 2764’ and in case titled as ‘*Pooran Singh vs. State of Delhi*’, 2022(1) RCR (Criminal) 503.

5. In view of the said facts, without commenting on the merits of the case, no useful purpose would be served by detaining the petitioner in custody. His custodial interrogation cannot be ordered only because of non-recovery of dowry articles. Consequently, the present petition is allowed and the order dated 14.02.2024 granting interim bail to the petitioner is made absolute, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure.

[MANISHA BATRA]
JUDGE

22nd May, 2024
Parveen Sharma

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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |