

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-8709-2022

Date of decision: 20.01.2024

Dilpreet Singh

...Petitioner

V/s

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Simranjit Singh, Advocate for the petitioner.

Mr. Gurlal Singh Dhillon, AAG Punjab.

Mr. Varun Veer Chauhan, Advocate
for respondent No.2-complainant.

SUMEET GOEL, J.

1. Present petition has been filed under Section 438 Cr.P.C. for grant of anticipatory/pre-arrest bail to the petitioner in case bearing FIR No.07 dated 24.01.2022 registered for the offences punishable under Sections 498-A and 406 (added later on) of Indian Penal Code, 1860 (for brevity 'the IPC') at Police Station Block Majri, District SAS Nagar (Mohali).

2. The FIR in question reads as follows:-

"Copy of Complaint No. 9408/S/SSP Dated 06.12.2021. To the SSP, District SAS Nagar, Complaint against Dilpreet Singh (Husband), (Mob. No. 78144-22397), Parminder Singh (Father in Law), Harpreet Kaur (Mother in Law), Jaskarnpreet Rai (Brother in Law) resident of 248, Ward No.9, Rajindra Colony, Khamanon, Distt. Fatehgarh Sahib regarding harassment and beating for dowry. It is requested that I, Harpreet Kaur wife of Dilpreet Singh d/o Balvir Singh is the resident of Village Manakpur Sharif, Tehsil Kharar, Distt. Mohali and requests as follow: 1. That I have given a complaint on 07.09.2020 vide Diary No. 2219 against your office. The investigation is marked to police post Majri and presently is pending. 2. That when I have given the above mentioned complaint then I was pregnant of 9 months and thereafter, I had given birth to a boy on dated

22.09.2020. That the above said accused had apologized by coming to us and assured us to not beating and demand and my family on the assurance of respectable persons sent me alongwith my son in the house of in laws and have given them the time for six months. Legal action will be taken if they will beat or demand as per the complaint. 3. The situation remained normal for one month on reaching the in laws house and thereafter, the in laws family started the same treatment and they started beating me and quarrel without any reason and my husband who takes drugs at my back now he started in take of drugs in front of me and started beating me in drunken condition and started blaming me regarding my character and never take care of me and my child and harass for every small and big talk and keeps away my child from me and never allow me to drink milk and give milk through bottle to child. That I am a Amritahari Gursikh and my husband has removed my Kirpan forcibly and says you are not fit to me. 4. That they have misbehaved my family on the first day of my son and also abused me and said that your family did not brought anything for us and thereafter, I went alongwith my husband at Village Salodi, Tehsil Samrala to attend the marriage ceremony of the son of Mama of my husband on dated 11.10.2021. I was talking with some relatives over there then my husband doubted me and falsely blamed me and beaten me on arrival at house and also broken the sim of my mobile. 5. That on 21.10.2021 when I objected my husband to not take drugs then he slapped on my face and also threw hot tea on my face and beaten me in anger and said to go away and again on the next day 22.10.2021 my husband alongwith mother in law beaten me and abused to my brother on phone and extended threats and said that you took your girl back and thereafter, by showing Kirpan to me said that see what I will do with your brother in his arrival, I stopped to my brother and father due to fear and Gurmukh Singh informed all the situation through phone to my family and said to help me. (Who was the respectable person during the conversation to return back in laws house). 6. That on the next day, dated 23.10.2021 the above mentioned Gurmukh Singh called to my father in law through phone then my in laws family got infuriated and my husband took me to street by dragging and beaten me and never stopped despite the intervention of the neighbours. Thereafter, police arrived on the spot and took me at Police Station Khamanon where my in laws family refused to took me and also refused to give the custody of the child and also local police did not hear my aspect and till date has taken no action. 7. I returned to my paternal house with my family from the Police Station, Khamanon. That on 29.10.2021 again came in front of our house in drunken condition and started abusing to my family and extended threats that he will eliminate my family alongwith me. The

Khamanon Police called us regarding the incident of 23.10.2021 on dated 14.10.2021, during this period and my in laws family again abused us over there and extended threats. 8. That I already remained under stress and till date my husband is not stopping to harass. I alongwith my child and family apprehend danger to life and my in laws family will be responsible if anything will happen to me, my child and my family. So, I request you to take action against accused Dilpreet Singh (Husband), (Mob. No. 78144-22397), Parminder Singh (Father in Law), Harpreet Kaur (Mother in Law), Jaskarnpreet Rai (Brother in Law) and justice should be given to me, I shall be highly thankful to you. Sd/- Harpreet Kaur"

3. Learned counsel for the petitioner has argued that the petitioner (herein) is the husband of the complainant and has been falsely roped in the present case; the FIR in question is outcome of matrimonial discord and does not involve any such culpability so as to warrant custodial interrogation & the petitioner has earlier joined investigation in terms of interim protection given to him by this Court (initially vide order dated 17.10.2022 and thereafter directed to continue vide further orders passed from time to time).

4. Learned State counsel as also the learned counsel for the complainant have opposed the present petition by submitting that the petitioner is not cooperating with the investigating agency; serious allegations have been made against the petitioner for which custodial interrogation of petitioner is required & the petitioner has been extending threats to the family of the complainant by misusing the concession of interim protection accorded to him by this Court. It has thus been sought that present petition be dismissed.

5. I have heard learned counsel for the parties and have perused the record with their assistance.

6. The prime issue for determination in the present petition is as to whether the petitioner deserves to be granted the concession of pre-arrest/anticipatory bail in the FIR in question in the facts/circumstances of the case. The analogous legal issue for determination in the present petition is as to whether conduct of an accused is a pertinent/relevant factor for adjudication of a plea for pre-arrest/anticipatory bail & whether the petitioner in the present case has, on account of his conduct, dis-entitled himself for the grant of concession of pre-arrest/anticipatory bail.

Relevant Statute

7. Sections 406 & 498-A of the Indian Penal Code, 1860 read as under:-

"406. Punishment for criminal breach of trust.-Whoever commits criminal breach of trust shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both."

498A. Husband or relative of husband of a woman subjecting her to cruelty.-Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

Explanation. For the purposes of this section, "cruelty" means-

(a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or

(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.]

Sections 41(1)(b), 41-A & 438 (1), (2) of the Code of Criminal Procedure, 1973 (hereinafter to be referred to as Cr.P.C.) stipulate as under:-

41. When police may arrest without warrant.--(1) Any police officer may without an order from a Magistrate and without a warrant, arrest any person-

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(b) against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists that he has committed a cognizable offence punishable with imprisonment for a term which may be less than seven years or which may extend to seven

years whether with or without fine, if the following conditions are satisfied, namely:-

(i) the police officer has reason to believe on the basis of such complaint, information, or suspicion that such person has committed the said offence;

(ii) the police officer is satisfied that such arrest is necessary-

(a) to prevent such person from committing any further offence; or

(b) for proper investigation of the offence; or

(c) to prevent such person from causing the evidence of the offence to disappear or tampering with such evidence in any manner; or

(d) to prevent such person from making 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 the police officer; or

(e) as unless such person is arrested, his presence in the Court whenever required cannot be ensured, and the police officer shall record while making such arrest, his reasons in writing

[Provided that a police officer shall, in all cases where the arrest of a person is not required under the provisions of this sub-section, record the reasons in writing for not making the arrest.];

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[41A. Notice of appearance before police officer.-(1) [The police officer shall], in all cases where the arrest of a person is not required under the provisions of sub-section (1) of section 41, issue a notice directing the person against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists that he has committed a cognizable offence, to appear before him or at such other place as may be specified in the notice.

(2) Where such a notice is issued to any person, it shall be the duty of that person to comply with the terms of the notice.

(3) Where such person complies and continues to comply with the notice, he shall not be arrested in respect of the offence referred to in the notice unless, for reasons to be recorded, the police officer is of the opinion that he ought to be arrested.

[(4) Where such person, at any time, fails to comply with the terms of the notice or is unwilling to identify himself, the police officer may, subject to such orders as may have been passed by a competent Court in this behalf, arrest him for the offence mentioned in the notice.]

"438. Direction for grant of bail to person apprehending arrest.-

[(1) Where any person has reason to believe that he may be arrested on accusation of having committed a non-bailable offence, he may apply to the High Court or the Court of Session for a direction under this section that in the event of such arrest he shall be released on bail; and that Court may, after taking into consideration, inter alia, the following factors, namely:-

(i) the nature and gravity of the accusation;

(ii) the antecedents of the applicant including the fact as to whether he has previously undergone imprisonment on conviction by a Court in respect of any cognizable offence;

(iii) the possibility of the applicant to flee from justice; and

(iv) where the accusation has been made with the object of injuring or humiliating the applicant by having him so arrested, Either reject the application forthwith or issue an interim order for the grant of anticipatory bail: Provided that where the High Court or, as the case may be, the Court of Session, has not passed any interim order under this sub-section or has rejected the application for grant of anticipatory bail, it shall be open to an officer-in-charge of a police station to arrest, without warrant, the applicant on the basis of the accusation of the accusation apprehended in such application

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(2) When the High Court or the Court of Session makes a direction under sub-section (1), it may include such conditions in such directions in the light of the facts of the particular case, as it may think fit, including-

(i) a condition that the person shall make himself available for interrogation by a police officer as and when required;

(ii) a condition that the person 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) a condition that the person shall not leave India without the previous permission of the Court,

(iv) such other condition as may be imposed under sub-section (3) of section 437, as if the bail were granted under that section.

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Relevant Case Law

8. The precedents, germane to the matter(s) in issue, are as follows:

(1) Whether the conduct of an accused is a relevant factor for consideration of a petition under Section 438 of Cr.P.C. for grant of pre-arrest bail.

(i) A three Judges Bench of Hon'ble Supreme Court in a judgment tiled as ***Vipan Kumar Dhir vs. State of Punjab and another, 2021 AIR (Supreme Court) 4865***, has held as under:-

*"10. In addition to the caveat illustrated in the cited decision(s), bail can also be revoked where the court has considered irrelevant factors or has ignored relevant material available on record which renders the order granting bail legally untenable. The gravity of the offence, **conduct of the accused** and societal impact of an undue indulgence by Court when the investigation is at the threshold, are also amongst a few situations,*

where a Superior Court can interfere in an order of bail to prevent the miscarriage of justice and to bolster the administration of criminal justice system. This Court has repeatedly viewed that while granting bail, especially anticipatory bail which is per se extraordinary in nature, the possibility of the accused to influence prosecution witnesses, threatening the family members of the deceased, fleeing from justice or creating other impediments in the fair investigation, ought not to be overlooked."

(ii) The Hon'ble Supreme Court in a judgment titled as ***Sushila Aggarwal vs. State (NCT of Delhi) 2020(2) SCR I***, has held as under:-

*"(5) Anticipatory bail granted can, **depending on the conduct and behaviour of the accused**, continue after filing of the charge sheet till end of trial."*

II. Issue of grant of bail in context of offences punishable by a maximum jail term of seven years.

(i) The Hon'ble Supreme Court in a judgment titled as ***MD. Asfak Alam vs. The State of Jharkhand & anr. 2023(3) RCR (Criminal) 754***, while reiterating the directions issued in the case of ***Arnesh Kumar vs. State of Bihar and another (2014) 8 SCR 128***, has held as under:-

"Before parting, the court would direct all the courts ceased of proceedings to strictly follow the law laid in Arnesh Kumar (supra) and reiterate the directions contained thereunder, as well as other directions:

"I. 11. Our endeavour in this judgment is to ensure that police officers do not arrest the accused unnecessarily and Magistrate do not authorize detention casually and mechanically. In order to, ensure what we have observed above, we give the following directions:

11.1. All the State Governments to instruct its police officers not to automatically arrest when a case under Section 498-A IPC is registered but to satisfy themselves about the necessity for arrest under the parameters laid down above flowing from Section 41 CrPC;

11.2. All police officers be provided with a check list containing specified sub-clauses under Section 41(1)(b)(ii);

11.3. The police officer- shall forward the check list duly filled and furnish the reasons and materials which necessitated the arrest, while forwarding/producing the accused before the Magistrate for further detention,

11.4. The Magistrate while authorizing detention of the accused shall peruse the report furnished by the police officer in terms aforesaid and only after recording its satisfaction, the Magistrate will authorize detention;

11.5. The decision not to arrest an accused, be forwarded to the Magistrate within two weeks from the date of the institution of the case with a copy to the Magistrate which may be extended by the Superintendent of Police of the district for the reasons to be recorded in writing,

11.6. Notice of appearance in terms of Section 41-A CrPC be served on the accused within two weeks from the date of institution of the case, which may be extended by the Superintendent of Police of the district for the reasons to be recorded in writing;

11.7. Failure to comply with the directions aforesaid shall apart from rendering the police officer concerned liable for departmental action, they shall also be liable to be punished for contempt of court to be instituted before the High Court having territorial jurisdiction.

11.8. Authorizing detention without recording reasons as aforesaid by the Judicial Magistrate concerned shall be liable for departmental action by the appropriate High Court,

12. We hasten to add that the directions aforesaid shall not only apply to the case under Sec 498-A IPC or Section 4 of the Dowry Prohibition Act, the case in hand, but also such cases where offence is punishable with imprisonment for a term which may be less than seven years or which may extend to seven years, whether with or without fine."

(ii) In a case titled as "**Mohammed Zubair vs. State of NCT of Delhi & Ors. 2022 LiveLaw (SC) 629**", a three Judges Bench of Hon'ble Supreme Court has held as under:

26. Police Officers are vested with the power to arrest individuals at various stages of the criminal justice process, including during the course of investigation. However, this power is not unbridled. In terms of Section 41(1)(b)(ii) of the CrPC, the police officer in question must be satisfied that such arrest is necessary to prevent the person sought to be arrested from committing any further offence, for proper investigation of the offence, to prevent the arrestee from tampering with or destroying evidence, to prevent them from influencing or intimidating potential witnesses, or when it is not possible to ensure their presence in court without arresting them.

27. *Police officers have a duty to apply their mind to the case before them and ensure that the condition(s) in Section 41 are met before they conduct an arrest. This Court has time and again, reiterated the importance of doing so, including in **Arnesh Kumar v. State of Bihar, (2014) 8 SCC 273** where the Court observed:*

"6. [...] The existence of the power to arrest is one thing, the justification for the exercise of it is q another. Apart from power to arrest, the police officers must be able to justify the reasons therof. No arrest can be made in a routine manner on a mere allegation of commission of an offence made against a person..."

28 *We once again have occasion to reiterate that the guidelines laid down in **Arnesh Kumar** (supra) must be followed, without exception. The raison d'être of the powers arrest in relation to cognizable offences is laid down in Section 41. Arrest is not mean be and must not be used as a punitive tool because it results in one of the gravest possible consequences emanating from criminal law: the loss of personal liberty Individuals must not be punished solely on the basis of allegations, and without a trial. When the power to arrest is exercised without application of mind and without a regard to the law, it amounts to an abuse of power. The criminal law and its process ought not to be instrumentalized as a tool of harassment. Section 41 of the CrPC as w as the safeguards in criminal law exist in recognition of the reality that any criminal proceeding almost inevitably involves the might of the state, with unlimited resources at its disposal, against a lone individual.*

III. Scope of discretion vested in Courts while exercising the power conferred under Section 438 Cr.P.C.

(i) A Five Judges Bench of Hon'ble Supreme Court in the celebrated judgment of **Gurbaksh Singh Sibbia etc. vs. The State of Punjab 1980 AIR (Supreme Court) 1632**, has held as under:-

14. Generalisations on matters which rest on discretion and the attempt to discover formulae of universal application when facts are bound to differ from case to case frustrate the very purpose of conferring discretion. No two cases are alike on facts and therefore, Courts have to be allowed a little free play in the joints if the conferment of discretionary power is to be meaningful. There is no risk involved in entrusting a wide discretion to the Court of Session and the High Court in granting anticipatory bail because, firstly, these are higher courts manned by experienced persons, secondly, their orders are not final but are open to appellate or revisional

scrutiny and above all because, discretion has always to be exercised by courts judicially and not according to whim, caprice or fancy. On the other hand, there is a risk in foreclosing categories of cases in which anticipatory bail may be allowed because life throws up unforeseen possibilities and offers new challenges. Judicial discretion has to be free enough to be able to take these possibilities in its stride and to meet these challenges.

15. Judges have to decide cases as they come before them, mindful of the need to keep passions and prejudices out of their decisions. And it will be strange if, by employing judicial artifices and techniques, we cut down the discretion so wisely conferred upon the Courts, by devising a formula which will confine the power to grant anticipatory bail within a strait-jacket. While laying down cast iron rules in a matter like granting anticipatory bail, as the High Court has done, it is apt to be overlooked that even Judges can have but an imperfect awareness of the needs of new situations. Life is never static and every situation has to be assessed in the context of emerging concerns as and when it arises. Therefore, even if we were to frame a code for the grant of anticipatory bail' which really is the business of the legislature, it can at best furnish broad guidelines and cannot compel blind adherence. In which case to grant bail and in which to refuse it is, in the very nature of things, a matter of discretion. But apart from the fact that the question is inherently of a kind which calls for the use of discretion from case to case, the legislature has, in terms express relegated the decision of that question to the discretion of the court, by providing that it may grant bail "if it thinks fit". The concern of the courts generally is to preserve their discretion without meaning to abuse it. It will be strange if we exhibit concern to stultify the discretion conferred upon the Courts by law."

(ii) The Hon'ble Supreme Court in a judgment titled as ***Central Bureau of Investigation vs. Santosh Karanani & anr. 2023(3) RCR (Criminal) 213***, has held as under:-

"24. The time-tested principles are that no straitjacket formula can be applied for grant or refusal of anticipatory bail. The judicial discretion of the Court shall be guided by various relevant factors and largely it will depend upon the facts and circumstances of each case. The Court must draw a delicate balance between liberty of an individual as guaranteed under Article 21 of the Constitution and the need for a fair and free

investigation, which must be taken to its logical conclusion. Arrest has devastating and irreversible social stigma, humiliation, insult, mental pain and other fearful consequences. Regardless thereto, when the Court, on consideration of material information gathered by the Investigating Agency, is prima facie satisfied that there is something more than a mere needle of suspicion against the accused, it cannot jeopardize the investigation, more so when the allegations are grave in nature.”

Analysis (re law)

9. The Hon'ble Supreme Court in case of **MD. Asfak Alam's** (supra) and **Mohammad Zubair** (supra), while reiterating the guidelines laid-down in the case of **Arnesh Kumar's** case (supra), has clearly directed that the Police as also the Courts are required to meticulously comply with the statutory provisions enshrined in Section 41 and 41-A of the Code of Criminal Procedure, 1973. In other words, the ratio decidendi of these judgments mandate all concerned including the Police, Prosecution as also the Courts to scrupulously follow the provisions contained in Sections 41 & 41-A of the Cr.P.C. in the manner, as directed by the Hon'ble Supreme Court & any deviation therefrom would invite penal/adverse consequences as enumerated by the Hon'ble Supreme Court.

An apprehension of any violation(s) of the above guidelines laid-down by the Hon'ble Supreme Court at the hands of the Police would entitle a person to make a petition for grant of pre-arrest/anticipatory bail. There is no gain saying that such an apprehension has a chilling effect on dignity as also the peace of mind of any individual & in such a case the person is well within his rights to make a plea for anticipatory bail, *inter alia*, to avoid harassment, humiliation and stigmatisation.

9.1 However, the above said legislative mandate as contained in Sections 41 & 41-A of the Cr.P.C., cannot be stretched to mean that the

conduct of an accused does not remain a factor to be considered by a Court

while considering a plea made by such accused for anticipatory/pre-arrest bail. The Hon'ble Supreme Court in case of **Vipan Kumar Dhir's** case (supra) as also **Sushila Aggarwal's** case (supra) has unequivocally held that, while considering a plea for anticipatory bail, the conduct of accused is required to be suitably evaluated. Accordingly, the accused while seeking anticipatory/pre-arrest bail cannot be permitted to raise a plea for such relief seeking shelter of the statutory provisions of Sections 41 & 41-A of the Cr.P.C. *dehors* his conduct. In other words, a Court cannot be expected to turn Nelson's eye to the misconduct of an accused while dealing with a petition for grant of anticipatory bail. This interpretation is further fortified by the nature of factors enumerated in Section 438(1) of Cr.P.C. for considering a plea for grant of pre-arrest bail.

9.2 The parameters for adjudicating the conduct of an accused, while dealing with a plea for anticipatory/pre-arrest bail, cannot be laid down in a straight jacket formula and will essentially depend upon the factual matrix of a particular case. The Hon'ble Supreme Court in the judgment titled as **Gurbaksh Singh Sibbia's** case (supra) as also **Santosh Karnani's** case (supra) has unambiguously enunciated that every case will have its own peculiar facts and no exhaustive rules can be laid down for this purpose. Our jurisprudential system has chosen to vest discretion in Courts for this very purpose keeping in view the principle that every case has its own peculiar set of facts & the factual matrix of no two criminal cases can be said to be alike.

10. As an epilogue to above discussion, the following principles of law can be culled out:

(1) A person, having apprehension of being arrested for offence(s) punishable by a maximum jail term of seven years, can make a plea for grant

of pre-arrest/anticipatory bail on ground of apprehension of violation by police of Sections 41/41-A of Cr.P.C., 1973 & canons of law enunciated by Hon'ble Supreme Court in the cases of *MD. Asfak Alam vs. The State of Jharkhand & anr.* 2023(3) RCR (Criminal) 754, *Arnesh Kumar vs. State of Bihar and another* (2014) 8 SCR 128 & *Mohammed Zubair vs. State of NCT of Delhi & Ors.* 2022 LiveLaw (SC) 629. Such a plea by a person has to be dealt with by a Court in consonance with the *ratio decidendi* of these Supreme Court judgments & statutory framework of Sections 41/41-A of Cr.P.C, 1973

(II) The conduct of an accused is an essential factor required to be considered by a Court while adjudicating upon a plea made by such an accused for grant of pre-arrest/anticipatory bail. An accused cannot seek shelter of provisions of Sections 41/41-A of Cr.P.C. *dehors* his conduct. Such conduct has to be ascertained at all stages including the conduct of such accused before filing the plea for anticipatory bail as also during the period the accused is granted interim protection (if it has been so granted) by a Court. The conduct of an accused after decision of such a plea in his favour will, of course, be subject matter of a petition for cancellation of such anticipatory bail (if situation so arises).

(III) For considering conduct of an accused, the Court would be required to look into the following aspects:-

- (a) whether the accused is making himself available for interrogation by the investigating officer as and when required by such investigating officer.
- (b) whether the accused is, directly or indirectly, making any inducement/threat/promise to any person(s) acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Courts/Investigating Officer.

(c) whether the accused has made any attempt to leave India without the requisite permission from the concerned competent Court.

(d) whether such accused has been involved in commission of any other offence during the pendency of the FIR in question.

The above said factors are only illustrative in nature since no exhaustive list of factors can be laid-down as every case has its own peculiar facts/circumstances.

Analysis (re facts of the present case)

11. Now this Court reverts to the facts of the present case.

11.1 The FIR in question stands registered against the petitioner (who is the husband of the complainant) under Sections 498-A and 406 (added later on) IPC. It was stated in the FIR that marriage between the petitioner and respondent No.2-complainant was solemnized on 14.12.2019 at Sri Gurudwara Santsar Sahib, Sector-38-West, Chandigarh, as per Sikh rites and rituals. Complainant has further alleged that her parents had tied her knot with the petitioner only on account of the fact that he was a baptized Sikh. Sufficient dowry was also given at the time of the marriage. However, later on it was discovered that petitioner was in the habit of consuming liquor and other intoxicants & under its influence used to hurl abuses on complainant and beat her. It was further alleged that parents of the petitioner had also raised a demand of Rs.2.5 lacs in order to send the brother of the petitioner namely Jaskaranpreet Singh abroad. As the complainant had not acceded to the said demand, she was threatened to give divorce by the petitioner. It was also averred that when she was pregnant, petitioner and his parents forced her to abort her child and turned her out of

intervention of respectables, a compromise was effected and complainant had returned to her matrimonial home. However, behaviour of the petitioner and her family members did not change and on 29.10.2021 petitioner gave severe beatings to the complainant. She was ultimately turned out of her matrimonial home without her child which necessitated her to lodge a complaint. Thereafter, the matter was thoroughly examined by Incharge, Women Cell (Counseling), District SAS Nagar and found the allegations of the complainant substantial and recommended to lodge the present FIR.

11.2 Upon the petitioner approaching this Court for grant of anticipatory bail after his plea having been declined by the Sessions Court; on 01.06.2022, this Court directed the parties (petitioner-husband and complainant-wife) to appear before the Mediation & Conciliation Centre of this Court and arrest of the petitioner was directed to be stayed. Thereafter, on 17.10.2022, the petitioner was directed to join investigation and time was granted to the complainant-respondent to bring on record the details of the petitioner extending threats to her. A status report in the matter has been filed on behalf of the State of Punjab by way of affidavit of Dharamvir Singh, Deputy Superintendent of Police, Sub- Division Kharar-II, District SAS Nagar, Punjab.

11.3 The petitioner was accorded the benefit of interim pre-arrest bail by this Court pursuant where to he is stated to have initially joined investigation. However, this Court finds the conduct of the petitioner such which disentitles him for grant of the benefit of anticipatory/pre-arrest bail for the following reasons:-

(i) It appears from the record that the petitioner is extending threats to the complainant as also her family members after grant of interim pre-

arrest bail by this Court. It has been stated in the status report dated

03.07.2023 (*ibid*) filed by the State of Punjab that the petitioner is not only using extreme filthy language with the complainant-respondent No.2 and her family members on social media but is also threatening to eliminate the brother of the complainant. The said brother of the complainant has also filed a complaint to the SHO, Block Majri, District SAS Nagar Mohali in this regard wherein the said SHO repeatedly summoned the petitioner to respond to the allegations of the brother of the complainant but the petitioner failed to appear before the police so as to respond to the said complaint.

(II) During the pendency of the present petition; none appeared for the petitioner on 03.07.2023, 20.10.2023 and 06.11.2023 whereupon this Court was constrained to issue notice to the petitioner as also his learned counsel. This by itself shows that there has been a concerted effort on part of the petitioner to procrastinate the adjudication of the matter while continuing to brazenly misuse the protection of interim anticipatory bail granted by this Court.

The above facts lead to an inescapable conclusion of misconduct on part of the petitioner by deliberate misuse of the interim anticipatory bail order passed by this Court. The action(s) of the petitioner demonstrate his having scant respect for law and process of justice. Undoubtedly, the petitioner has earlier joined investigation in terms of interim protection granted to him by this Court but has somehow chosen to deliberately misuse the same and make censurable attempt(s) to intimidate the complainant and her family members. In the considered opinion of this Court, the petitioner does not deserve to be granted the concession of anticipatory/pre-arrest bail in the entirety of the facts/circumstances of present case.

Decision

12. As a sequel of aforementioned discussion, the present petition filed by petitioner-Dilpreet Singh for grant of pre-arrest/anticipatory bail in FIR No.07 dated 24.01.2022 registered under Sections 498-A and 406 (added later on) IPC at Police Station Block Majri, District SAS Nagar (Mohali), is dismissed. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.

(SUMEET GOEL)
JUDGE

January 20, 2024

Whether speaking/reasoned:	Yes
Whether reportable:	Yes