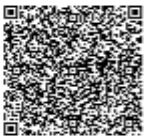


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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M No.15525 of 2023 (O&M)
Date of Decision: 13.05.2024

Raghunath Kumar and another ... Petitioners

Versus

State of Haryana and another ... Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Karambir Singh Nalwa, Advocate and
Mr. Yajur Sharma, Advocate,
for the petitioners.

Mr. Arjun Lakhanpal, Addl. AG, Haryana.

Mr. Navjot Singh, Advocate,
for respondent No.2.

MANISHA BATRA, J.

CRM-34009-23

The application stands dismissed as not pressed at this stage.

Main Case

1. The present petition has been filed under Section 438 Cr.P.C. seeking anticipatory bail by the petitioners in case arising out of FIR No.363, registered under Sections 313, 323, 354, 406, 498-A and 34 of IPC at Police Station Bahalgarh, District Sonipat.

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2. Brief facts of the case relevant for the purpose of disposal of the present petition are that the aforementioned FIR was registered on 28.11.2022 on the basis of written complaint filed by the complainant Swati Ahuja alleging therein that her marriage was solemnized with the accused Rishabh Bhalla who is son of the present petitioner on 25.11.2020 at Sonapat, according to Hindu rites and ceremonies. Her parents had spent money beyond their capacity at the time of marriage and had given her sufficient dowry. However, her in-laws were not happy with the dowry articles given to her and just few days after the marriage, they started taunting her by saying that their son was earning handsome amount of money and also demanded a luxury car and one flat if she wanted to stay with them. When the complainant expressed the inability of her parents to meet with this demand, they started hurling abuses to her parents. She alleged that her in-laws retained the jewellery given by her parents to her. She was also made to leave her job on the pretext that since her husband would be taking her to Canada shortly, therefore, there was no need for her to do the same.

3. As per the further allegations, after her husband had left, her parents-in-law started misbehaving with her. The petitioner No.1 tried to outrage her modesty on 07.02.2021 under the influence of liquor. Her husband came back from Canada in March 2021 and on the instigation of his parents, he also started harassing her. Even her mobile phone was snatched. Her parents were compelled to bring her back to her parental house on 26.05.2021 due to the harassment given by the petitioners. However, on 05.06.2021, her husband had come to her parental house and by assuring to

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not to repeat the same behaviour again, she was brought back. She had conceived thereafter but suffered an abortion as she was extended beatings by her husband. All the members of her in-laws family had hatched conspiracy to get rid of her and when her husband went back to Canada on 28.11.2021 with the promise to call her to Canada, her parents-in-law had started misbehaving with her again thereby compelling her to come back to her parental house on 05.12.2021. She further alleged that the application which was got filed for her sponsorship for Canada had also been got cancelled without her consent by the petitioners on 22.04.2022. While alleging that her passport and jewellery were with her parents-in-law which they were not returning, she prayed for taking action against them. After registration of FIR, the investigation proceedings were initiated and are underway. The petitioners had moved application for grant of anticipatory bail before the Court of learned Additional District and Sessions Judge, Sonipat which had been dismissed vide order dated 14.03.2023.

4. The present petition has been filed by the petitioners who are parents-in-law of the complainant and it is argued by their counsel that they have been falsely implicated in this case. They are old aged persons. Their three children are staying and working in Canada and they were also staying there at the time of registration of FIR. They have refuted the allegations as levelled in the FIR by arguing that totally false allegations have been levelled against them. The allegation that the complainant made false allegations with regard to outraging her modesty by petitioner No.1 on 07.02.2021 are palpably wrong and stand falsified on the basis of Whatsapp

Chat record which had taken place between the complainant and her

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husband during the period from 07.02.2021 till 14.02.2021. Self-contradictory allegations have been alleged. They had previously joined the inquiry when the FIR was not registered and had left for Canada to meet their children and they were not aware that any FIR would be lodged against them. They are ready to join the investigation. Their custodial interrogation was not required. With these submissions, it is argued that the petition deserves to be allowed.

5. Status report has been filed by respondent No.1-State and reply has been filed by respondent No.2-complainant. It is submitted therein and it has been argued by learned State counsel assisted by learned counsel for the complainant that there are serious allegations against the petitioners. Their custodial interrogation is required for thorough investigation in the matter. All the jewellery belonging to the complainant as well as her passport are in custody of the petitioners. They had joined investigation earlier but deliberately avoided to join it further and went away to Canada. There are chances of their absconding if extended benefit of pre arrest bail. Therefore, it is argued that the petition does not deserve to be allowed.

6. I have heard learned counsel for the parties at considerable length and have gone through the record.

7. The allegations against the petitioners who are parents-in-law of the respondent No.2-complainant, are that they subjected her to cruelty on account of demand of dowry and had kept her istridhan with them and had caused her miscarriage. There are also allegations that they extended beatings to her and further that on 07.02.2021, the petitioner No.1 had tried to outrage the modesty of the complainant. The petitioners have placed on

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record Annexure P-5 (Colly) which are copies of the Whatsapp conversation which had taken place between the respondent No.2-complainant and her husband i.e. son of the petitioners during the period from 07.02.2021 till 14.02.2021. On perusal of the same, it is revealed that, they had been expressing their love for each other and the complainant is even shown to have chatted with the son of the petitioners on 08.02.2021 that she was sitting on the dining table with petitioner No.1 and was having dinner. It can reasonably be presumed that if any act of outraging the modesty of the respondent No.2-complainant would have been committed by the petitioner No.1 as on 07.02.2021, then the complainant must have shared the same with her husband at least and the romantic conversation which took place as reflected in Annexure P-5 would certainly not have taken place in that circumstance.

8. Further, though there are allegations with regard to demand of dowry and subjecting the complainant to cruelty on account thereof, she being extended beatings and qua her miscarriage being caused due to that reason, are concerned, it is admitted case of both the sides that respondent No.2 had left her matrimonial house on 05.12.2021. The complaint in this case was lodged on 17.08.2022 and FIR was registered on 28.11.2022 i.e. after a gap of almost one year. The documents placed on record reveal that no list qua the articles which had allegedly been misappropriated or retained by the petitioners was given in the FIR and the same was given much later on. The attention of this Court has been drawn by the petitioners' counsel to the order passed by learned Additional Sessions Judge thereby dismissing the application for grant of pre arrest bail by the petitioners and a perusal of

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the same reveals that it was mentioned therein that the list of dowry articles was submitted by the complainant on 24.12.2022 i.e. four months after lodging of the complaint. She is shown to have filed a new list of dowry articles in March 2024. The petitioners had joined investigation on 28.08.2023, 15.09.2023, 19.09.2023, 17.11.2023 and now on 20.03.2024, 23.03.2024, 27.03.2024, 04.04.2024 and 27.04.2024. They have placed on record Annexure P-20 copy of list of articles belonging to the complainant and lying at their house and Annexure P-21 is copy of letter written by the petitioner No.1 to the Investigating Officer for taking over the custody of those articles. Annexure P-17 is copy of memo of recovery of documents belonging to the complainant. The complainant has been furnishing new list of the articles alleged to have been entrusted to the petitioners and non recovery of such articles is being alleged.

9. Learned State counsel has submitted that though all articles as mentioned in Annexure P-20 have been handed over to the Investigating Officer but the ornaments of the complainant have not been returned. The complainant has not produced any bills etc. on record to show the details of those ornaments and qua entrustment of the same to the present petitioners. Non recovery of dowry articles cannot be made a ground to deny concession of bail to the petitioners 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. The custodial interrogation of the petitioners is no more required. No useful purpose would be served by detaining them in custody.

Keeping in view all these facts and circumstances, I am of the considered

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opinion that they deserve to be given concession of anticipatory bail. Hence, the present petition is allowed and the order dated 20.03.2024 granting interim bail to the petitioners is made absolute, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure and the petitioners shall not intimidate witnesses and shall not leave the country without the previous permission of the Court.

13.05.2024	(MANISHA BATRA)
manju	JUDGE
Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No