

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

101

CRM-M-53701-2023 (O&M)
Date of decision: 09.01.2024

Gautam Nagar ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Vishal Goel, Advocate
for the petitioner.

MANISHA BATRA, J. (Oral)

1. CRM-53489-2023

Allowed as prayed for.

Documents are taken on record as Annexures A-1 to A-7.

2. CRM-M-53701-2023 (O&M)

Through the instant petition, filed under Section 438 of Code of Criminal Procedure, 1973, the petitioners seek anticipatory bail in case FIR No. 186, dated 11.08.2023, under Sections 494, 498-A and 406 of the IPC at Police Station City Sunam, District Sangrur.

3. Briefly stated facts of the case are that the aforementioned FIR was registered on the basis of the written complaint filed by complainant Pooja alleging therein that she was married with the petitioner on 15.04.2020

Neutral Citation No. 2024:PHHC:001516

according to Hindu rites and ceremonies at Shiv Kalian Mandir, Sunam. Her parents had spent huge amount of money at the time of her marriage and sufficient dowry articles were given. However, the petitioner and his family members were not satisfied with the same and shortly after the marriage, they started taunting her on account of bringing insufficient dowry by saying that she had come from a poor home and her parents had not given gold ornaments. The petitioner was serving Army and they used to say that several rich families were interested in matrimonial alliance of their son with them. She further alleged that on 06.07.2022, a male child, namely Tanayam Naagar, was born to her. Whenever, her husband used to go to the field, the complainant was made to reside in her parental house. On 28.05.2020, also the petitioner had to join his duty in Army and, therefore, he dropped her at her parental house. On 17.07.2020, her mother-in-law had taken her back to matrimonial house. The petitioner had also come there in the month of September/October, 2020. It was further alleged by the complainant that the behavior of her in-laws including her husband remained very abusive towards her and she was always taunted for bringing less dowry and was harassed on account of the same. It was further alleged by her that on 13.04.2021, when she was in her in-laws house, then one Daisy came along with her husband and while having an altercation with her, tried to throw her out of there. She came to know that the petitioner, without taking divorce from her, had performed second marriage with said Daisy on 15.12.2020 and even a female child was also born. While alleging that her dowry articles had been usurped by the petitioner and his family members and she was subjected to cruelty at

their hands, she prayed for taking action against them. On the basis of her statement and after registration of the aforementioned FIR, investigation proceedings have been initiated. The petitioner had filed an application for grant of anticipatory bail before the Court of learned Additional Sessions Judge, Sangrur, which had been dismissed, vide order dated 11.10.2023.

4. The present petition has been filed by the petitioner on the grounds and it is argued by his counsel that he has been falsely implicated in this case. In fact, he had never performed or promised to perform marriage with the complainant and was living in live-in-relationship with her as he was having an affair with her. The complainant had never resided in her house and always resided in her parental house, which shows that she was not his legally wedded wife. The petitioner was married to Daisy and a female child was also born. He was never aware that any child was born out of his alliance with the complainant. The subject offences were not made out against him. He was ready to join investigation. Therefore, he argued that the petitioner deserves to be given benefit of anticipatory bail.

5. Learned State counsel, assisted by learned counsel for the complainant, has contested the petition in terms of the status report, wherein it is submitted that in fact the petitioner had performed marriage with the complainant on 15.04.2020 during the lock down period and the material collected during investigation in the form of report received from the office of SDM, Sunam proved that his marriage was performed with the complainant at Shiv Kalian Mandir, Sunam. He had performed marriage with Daisy subsequently without obtaining valid decree of divorce from the complainant.

The allegations against him were quite serious in nature as despite being posted as an army personnel, he had shown no care for law and while concealing the factum of his previous marriage, had performed second marriage and then by subjecting the complainant to cruelty both physical and mental and leaving their small child, had committed grave offences and is given guilty of making false declarations as to his marriage. He has argued that for thorough investigation of the matter by the police, the custodial interrogation of the petitioner was required and accordingly, it is urged that the petition does not deserve to be allowed.

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

7. The petitioner is alleged to have subjected the victim Pooja to cruelty on account of demand of dowry and is also alleged to have subjected her to physical as well as mental cruelty. Though, there is *prima facie* material on record to show that he had performed marriage with her as on 15.04.2020, however, very smartly he has denied this fact in his petition and has claimed that it is Daisy, who is his legally wedded wife. As apparent from the record, the above said Daisy had in fact lodged a case under Section 376 IPC as against the petitioner and that might have been a reason for the petitioner to perform marriage with her to avoid his possible conviction in the matter. The petitioner, while being legally wedded to the complainant and despite having a child from her, not only performed marriage with above said Daisy but has been openly denying the factum of marriage with the complainant and seeks protection of pre-arrest bail. Anticipatory bail should not be granted lightly

and in a routine manner. The powers under Section 438 Cr.P.C. are to be exercised sparingly and in exceptional cases keeping in view the facts and circumstances of each case. An order of anticipatory bail should not operate as an inroad in the normal legal procedure of criminal cases by the trial Court. In my considered opinion, for proper and thorough investigation of the matter, custodial interrogation of the petitioner is required. Keeping in view the nature of allegations, which have been levelled against the petitioner, the acts attributed to the petitioner and attendant facts and circumstances, I am of the considered opinion that no ground has been made out for extending benefit of pre-arrest bail to the petitioner. Hence, the petition is dismissed.

09.01.2024

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No