

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

205

CRM-M-61394-2023 (O&M)
Date of decision: 09.01.2024

Jagjit Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Rajneesh Budhriraja, Advocate
for the petitioner.

Mr. R. S. Khaira, DAG, Punjab.

Dr. Malkiat Singh Jandiala, Advocate
for the complainant.

MANISHA BATRA, J. (Oral)

1. Through the instant petition, filed under Section 438 of Code of Criminal Procedure, 1973, the petitioner seeks anticipatory bail in case FIR No. 78, dated 23.09.2023, under Section 498-A IPC at Police Station Women Cell, S.A.S. Nagar.
2. The aforementioned FIR had been registered against the present petitioner on the basis of a written complaint filed by complainant Gursharan Pal Kaur, who, as per her own claim, was previously married to one Balwinder Singh in the year 2012 but he had left her along with her son in the year 2015. She had come into contact with the present petitioner and they had solemnized marriage on 26.11.2018 according to Hindu rites and ceremonies. She alleged that after her marriage with the petitioner, his family members and himself started pressurizing her for having an offspring out of alliance

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with the petitioner. The complainant had suffered ectopic pregnancies and was advised not to conceive for some time but was pressurized to do so, due to which, she had to suffer another ectopic pregnancy leading to removal of her second fallopian tube. She was given taunts by her mother-in-law as well as husband for not giving birth to a child and was also subjected to physical abuse, cruelty and sexual harassment. As such, she prayed for taking action against the petitioner. After registration of the FIR, investigation proceedings have been initiated and are going on. The petitioner had filed an application for grant of anticipatory bail before the Additional Sessions Judge, S.A.S. Nagar but the same was dismissed, vide order dated 24.11.2023 (Annexure P-3).

3. The petitioner has filed this petition on the grounds and it argued by his counsel that he has been falsely implicated in this case. He had come into contact with the complainant through social media. The complainant had never disclosed the fact that she had left her husband without obtaining divorce from him. He has further argued that though the petitioner had solemnized marriage with the complainant but in fact he had been cheated by her and his marriage was nullity as the complainant was not a divorced person. He had also filed a complaint against the complainant in this regard and the present FIR was a counterblast to the same. Learned counsel for the petitioner further argued that the allegations on the face of the record do not make out any case for commission of offence punishable under Section 498-A IPC as against the petitioner. The petitioner is ready to join investigation. His custodial interrogation is not required. Therefore, he has argued that the

petition deserves to be allowed and the petitioner deserves to be given the concession of anticipatory bail.

4. Status report has been filed by the respondent-State. The complainant has also been represented by her counsel. It is argued by learned State counsel, assisted by learned counsel for the complainant, that there are serious allegations against the petitioner. He has subjected the complainant to cruelty on account of demand of dowry. In the proceedings, which have been filed under Section 13-B of the Hindu Marriage Act between the parties, he had agreed to pay an amount of Rs. 7 Lakhs to the complainant in two equal installments but has backed out from the same. The allegations levelled against the petitioner need to be thoroughly investigated, for which, custodial interrogation of the petitioner is required. Hence, it is argued that the present petition is liable to be dismissed.

5. I have heard learned counsel for the parties and have also gone through the material placed on record.

6. The petitioner/accused is alleged to have been mentally and physically harassed the complainant. It is, however, made out from the allegations in the FIR itself that when the complainant performed marriage with the petitioner, she was not having a valid decree of divorce from her first husband in her favour. It is debatable question as to whether on the basis of the allegations, which have been levelled in the FIR, a case for commission of offence under Section 498-A IPC has been made out at all or not because it is not revealed that the alleged acts of cruelty were on account of demand of dowry on the part of the petitioner. The custodial interrogation of the petitioner is not required in the peculiar facts and circumstances of the case.

As such, I am of the considered opinion that it is a fit case for extending benefit of anticipatory bail to the petitioner.

7. Accordingly, the present petition is allowed. The petitioner is granted concession of anticipatory bail in the aforesaid case, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure.

8. However, it is made clear that it will be open for the Investigating Officer to call upon the petitioner to join investigation, if required, after serving him an advance written notice in this regard.

09.01.2024

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No