

Sr.No.103

2024:PHHC:007279

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-62833-2023(O&M)

Date of decision:18.01.2024

Jaswinder Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: Hon'ble Ms. Justice Harpreet Kaur Jeewan

Present: Mr.Umesh Kumar Kanwar, Advocate
for the petitioner.

Mr. Karam Chand, Advocate
For the complainant.

Mr. Jaspal Singh Guru, AAG, Punjab.

Harpreet Kaur Jeewan, J.(Oral)

1. The present second petition has been filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in case FIR No.79 dated 18.10.2023(Annexure P-1) registered at Police Station Women Cell, District Police Commissionerate, Ludhiana under Sections 406/498-A IPC.

2. The petitioner is facing the allegations that his marriage was solemnized with the complainant on 10.03.2023 and the complainant-wife left the matrimonial home on 11.04.2023. She got registered the FIR on 18.10.2023. There are allegations against the petitioner regarding demand of dowry. After 10 days of marriage the petitioner as well as his relatives used to beat the complainant and she was sent to Chandigarh from Muktsar alongwith the petitioner who is working in Air Force and stationed at Chandigarh. There are serious allegations that the petitioner used to force the complainant-wife for un-natural sex as well as for oral sex against her wishes. He used to spit in her vagina and anus.

3. The first bail application was dismissed as withdrawn as per order dated 30.11.2023 and the said application was dismissed as withdrawn after the arguments were addressed by the counsel for some time. The relevant portion reads as under:-

“[1] After arguing for some time, learned counsel for the petitioner submits that he may be permitted to withdraw the present petition.

[2] Dismissed as withdrawn.”

4. Learned counsel for the petitioner *inter alia* contends that the present application is maintainable in view of the judgment passed by the Division Bench of the Kerala High Court in *Aneesh vs. State of Kerala 2014(3) R.C.R.(Criminal) 454* and the Hon’ble Apex Court in *Rani Dudeja vs. State of Haryana 2017(3) SCC 555*. Learned counsel for the petitioner could not show any change of circumstances after dismissal of the first bail application which was dismissed as withdrawn after arguing for some time. The ratio in both the said decisions is not applicable to the facts of the present case as the counsel appearing for the petitioner could not show that there is any change of circumstances after dismissal of first bail application which was noticed. Moreover, there are serious allegations against the petitioner for forcing her for unnatural sex. The FIR was got registered immediately after marriage. The marriage was solemnized on 10.03.2023 and the complaint was moved to police on 24.04.2023. Though FIR was registered on 18.10.203. The case does not fall within the parameters of Section 438 of the Code of Criminal Procedure. As such, no ground is made out to grant the concession of pre-arrest bail to the petitioner in the present case.
5. Pending application, if any, shall also stand disposed of.

18th January, 2024

Shivani Kaushik

[HARPREET KAUR JEEWAN]

JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No