



285 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-64526-2023(O&M)
Date of decision: 14th May, 2024

Nitin Gupta

...Petitioner(s)

Versus

State of Punjab

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Sourabh Singla, Advocate for the petitioner.
Mr. A.S. Samra, AAG, Punjab.

MANISHA BATRA, J (ORAL):-

CRM-19274-2024

This application has been filed by the complainant to place on record some photographs to show that she was physically assaulted by the petitioner on 04.07.2022.

For the reasons mentioned in the application, the same is allowed, subject to all just exceptions. The photographs and other documents so placed on record are ordered to be taken on record as Annexures C-1 to C-6, respectively.

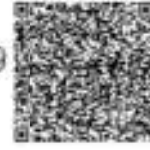
Main case

The instant petition has been filed by the petitioner under Section 438 of Cr.P.C. seeking concession of pre arrest bail in case arising out of FIR No. 80 dated 22.10.2023 registered under Sections 406 and 498-A



of IPC at Police Station PS Women Ludhiana, District Ludhiana, Punjab.

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on the basis of a written complaint submitted by the complainant Monal Gupta alleging therein that she was married with the present petitioner on 22.11.2019 according to Hindu rituals. A female child was born out of the wedlock. Before her marriage, the petitioner and his family members had raised demand of a sum of Rs. 20,00,000/- to invest in his business. Her mother had given an amount of Rs. 5,11,000/- through cheque/ bank transaction to her husband and sister-in-law. At the time of marriage, huge amount of money was spent as per the demands made by the petitioner and his family members. Dowry articles in different forms, cash and gifts were given to her in-laws. She alleged that on the very night of the wedding, when she reached at her in-laws house, she was given taunts by her husband and parents-in-laws on account of bringing insufficient dowry. They raised demands of a split AC, home theater etc. Her husband started extending beatings to her without any fault and on 16.07.2020 also he had done so. She had even reported the matter to the police and with the intervention of neighbours and other family members, a compromise had been arrived at between them. On 09.08.2020, she had gone to her mother's house at Chandigarh, along with her cousin. She was pregnant at that time. She had fallen ill and had to be admitted to hospital but during that period neither the petitioner nor any member of his family came to ask about her well being. She reached back to her in-laws house on 08.11.2020, but was not allowed to enter therein and



was pushed outside despite the fact that she was having six month pregnancy at that time. It was when the intervention of the police and neighbourers, she was allowed to enter in her nuptial home.

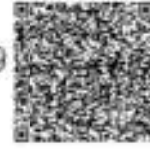
3. The complainant further alleged that she continued bear the torture of the petitioner and his family members to settle herself in her matrimonial home. After the birth of her daughter, the behaviour of the petitioner and his family members was even worsened. She was extended beatings on 23.02.2022 by her in-laws and sister-in-law, she rushed outside her house and tried to ask the neighbourers for help but was forcibly taken inside and kept confined there till 07.04.2022. She was extended beatings on 07.04.2022. Her husband even tried to strangulate her. The petitioner and his family members wanted to get her separate from her daughter also and had been mentally as well as physically torture to her on account of demand of dowry and even otherwise. While alleging that all her istridhan was in the possession of petitioner and other family members and they did not give the same back to her even on repeated requests and that the petitioner and his family members wanted her to leave her matrimonial house and to give divorce to the petitioner, she prayed for taking action against them. After registration of FIR, investigation proceedings have been initiated and are going on. The petitioner had moved an application for grant of anticipatory bail before the Court of learned Additional Sessions Judge, Ludhiana but the same was dismissed vide order dated 12.12.2023.

4. The present petition has been filed by the petitioner on the grounds and it is argued by his counsel that he has falsely been implicated in



this case. Infact, the complainant is well educated lady having superiority complex as the petitioner is not being so literate and runs a shop in Ludhiana. She used to give taunts to the petitioner. She pressurized the petitioner to live separately from his mother and quarrels were being raised by her on one pretext or the other to exert such pressure. The allegations as to demand of dowry were false, omnibus and general in nature and were not believable on the face of the record. The complainant had filed a criminal writ petition seeking protection of her life and liberty against the petitioner and his family members just to harass them. Her entire dowry articles had been returned by the petitioner and this fact was mentioned in the order dated 31.08.2023, in CRWP-5491-2023 titled as 'Monal Gupta Vs. State of Punjab and others' as passed by this Court. The custodial interrogation of the petitioner was not required. The petitioner has already joined the investigation. Recovery of gold ornaments etc. had also been effected from him. The ingredients for commission of offence punishable under Section 406 of IPC were not at all made out against the petitioner as there was no allegation as to what particular item/property belonging to the complainant has been entrusted to him and in which manner he had misappropriated the same. Therefore, it is argued that the petition deserves to be allowed.

5. Status report has been filed by the respondent-State, as per which, preliminary inquiry was conducted prior to registration of FIR. In compliance of the order dated 31.08.2023, passed in CRWP-5491-2023, the complainant had gone to her matrimonial house on 02.09.2023 and had brought some articles belonging to her daughter and for herself for the



purpose of daily use. The co-accused has joined the investigation. The petitioner was directed to join the investigation vide order dated 13.03.2024. As submitted by learned State counsel, he has joined investigation on 06.07.2024, got effected recovery of 8-9 tolas of gold and household items.

6. It is argued by learned counsel for the complainant that recovery of some gold articles belonging to the complainant is yet to be effected. The allegations against the petitioner are serious in nature. The petitioner and his family members physically as well as mentally tortured the complainant and the photographs Annexure C-1 which were taken from the CCTV footage of the camera installed in her matrimonial house proved this fact. Therefore, it is argued that the petition does not deserve to be allowed.

7. I have heard learned counsel for the petitioner as well as learned State counsel at considerable length and have gone through the record carefully.

8. The petitioner along with his family members is alleged to have subjected the complainant to cruelty on account of bringing insufficient dowry and it is also alleged against him that even prior to the marriage of the parties, the mother of the complainant had transferred an amount of Rs.5,11,000/- in the bank account of the petitioner as per demand made by him. The petitioner has since joined the investigation. Some gold ornaments and other articles belonging to the complainant are also shown to have been recovered. Though, the claim of the complainant is that the recovery of some more gold ornaments is yet to be effected and hence the petitioner does not

deserve to be given concession of pre-arrest bail but the non-recovery of gold ornaments cannot be considered to be a ground to deny benefit of bail to the petitioer as per settled proposition of law. Reference in this regard can be made to ‘*Jagdish Thakkar vs. State of Delhi*’, 1992 (3) CCR 2764’ and to ‘*Pooran Singh vs. State of Delhi*’, 2022(1) RCR (Criminal) 503.

9. So far as the question of veracity of the photographs placed on record as Annexure C-1 is concerned, the same is to be seen by learned trial Court at the time of evidence produced before it and it is not appropriate for this Court at this stage to go into the merits of the case. Keeping in view the fact that the custodial interrogation of the petitioner is not required as he has already joined investigation, the nature of the allegations as levelled against the petitioner, the fact that the offences as alleged against him are triable by Magistrate and the attendant facts and circumstances of the case, I am of the considered opinion, that the order dated 13.03.2024 granting interim bail to the petitioner deserves to be made absolute. It is, accordingly, made absolute, subject to the compliance of conditions laid down in Section 438(2) of the Code of Criminal Procedure.

10. It is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

[MANISHA BATRA]
JUDGE

14th May, 2024
Parveen Sharma

1. Whether speaking/ reasoned

:

Yes / No
2. Whether reportable

:

Yes / No