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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-49703-2022 (O&M)
Decided on : 22.01.2025

HARMINDER SINGH @ LUCKY

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present : Mr. Ashish Aggarwal, Advocate
for the petitioner.

Mr. Aakanksha Gupta, AAG Punjab.

Mr. Prabhjot Singh Mann, Advocate for complainant.

KIRTI SINGH, J. (Oral)

1. Apprehending arrest in FIR No.50 dated 04.10.2022, under Sections 498-A and 406 IPC and Section 67 of Information Technology Act, registered at Police Station Women Cell, District Amritsar, the petitioner has preferred this petition under Section 438 of Cr.P.C. for grant of anticipatory bail.
2. The contents of the above-mentioned FIR are reproduced herein below :-

"It is stated that the complaint No. UID No. 2359494 dated 03.06.2022 received from Neha W/o Harminster Singh D/o Prem Kumar resident of House No.4029, Opposite Anandpur Kutia, Gurbax Nagar, Amritsar received through post in the police station which is as, "To the Hon'ble Police Commissioner, Amritsar. Subject: Complaint against (1)Harminster Singh husband son of Nand Kishore. (2). Kishan Kaur mother in law wife of Nand Kishore, both are residents of 197/4, Sutheri Road, Sant Nagar, Hoshiarpur, for harassment, cheating and for posting viral videos on the internet. Sir, it is requested that my name is Neha Sharma D/o



Prem Kumar resident of House No.4029, Opposite Anandpur Kutia, Gurbax Nagar, Amritsar. I am law abiding woman. My marriage was performed with Harmander Singh on 20.04.2020 as per Hindu Rites. After marriage I stayed with my husband at Hoshiarpur. My husband Harmander Singh approached me for marriage through internet. We inquired about them at Hoshiarpur but due to COVID period we did not verify it properly. My parents performed my marriage with Harmander Singh. As I was already divorcee and my parents gave jewellery and dowry articles as per their capacity. At the time of marriage my father gave to the accused and his mother one gold set of 4 tolas, 4 bangles of 6 tolas, one nose pin 1-1/2 tola, one Mang Ticka weighing 2 Tolas, one ring 2 grams. Apart from that some house old articles, clothes and other articles were given to the accused persons. While giving those articles my parents told to the accused persons that these are dowry articles and it is for the use of my daughter. The said articles are in the possession of accused persons. Soon after the marriage the behaviour of the accused persons were changed towards me and they use to harass on the pretext of less dowry. They time and again repeat that your parents did not give us dowry as per our status. For that reasons we feel insulted among our community. The accused No. 1 use to taunt me on the provocation of accused No.2 and mentally and physically harassed me. He demanded Rs. 10 lacs, otherwise, they will harass me. Time and again accused no.1 harass me. His sister is in Canada and I want to go Canada. For that Rs. 10 lacs are required and you bring this amount from their parents. On the demand of dowry, number of times accused no.1 and 2 gave me beatings. It is pertinent to mention here that accused no. is alcoholic and gave beating to me after consumer alcohol. I used to tolerate all this because this is my second marriage and I hope that they will soon become alright and my sorrows will come to an end. It is further pertinent to mention here that before marriage accused No. No.1 told me that he is chartered account but actually he is just 12th pass and he is already married thrice. He used to spoil the life of the girls. After some time I came to know from my neighborhood that he is a man of bad character. He used to compel the girls to enter into immoral business and enjoy their money. When I inquired myself then I came to know that on the ground floor of their house there are some boys and girls are living. He told me that those are their friends and leave the house after 3-4 hours. When I inquired about accused, then they stop me to say anything and badly gave me the beatings. They closed me in a room and not given anything to eat. One day when I got the mobile phone of the accused, then I came to know that on the nude photograph of a woman on internet he put my mobile No.6239536530 and posted. When I inquired about the same he gave me beatings and give some substance by which I become unconscious. They make my indecent videos and showed it to me and



started blackmailing me. They used to tell, if you will not agreed for immoral business then I will upload the video on the internet. Despite this fact I never said know to them, then I put my mobile number on the photograph of nude lady. After that I received number of calls. I got mentally upset. When I inquired from the internet that from where they got my number then I came to know that my husband make IDs by the name of L.RAMGARHIA and another ID L.KAUR and Another ID MANPREET KAUR and accused No.1 on the L.RAMGARHIA ID posted my number on messenger app alongwith indecent photo. I have a screen shot of the same. I have attached the copy of the same. He posted my number on the Google PORN SITE and the same is attached. He also created another ID by the name of SAMSAM SINGH or Google PORN SITE upladed and shared it on whatsapp group. From this thing we came to know that how much they harass me. I have recorded one call in which he is talking about my indulgence indecent activities. It is also to be mentioned that he is operating from three IDs on the facebook (1) SAFFY CANADA (2) L. KAUR RAMGARHIA and (3)H.S. BHARAJ RAMGARHIA. He again posted an advertisement for marriage on the facebook. So that he can spoil the life of other girls. On 11.03.2021 some unidentified persons came to my house and forcibly brought me to the room at ground floor for illegal activities. Accused No.1 and 2 told me that we have received a huge amount for that I raised my voice and pushed them to save my life and come outside from room. For that the accused throw me out of the house and told me if you are not indulge in such activities then you are supposed to bring Rs.10 lacs from your parents.. I refused for that and went to my parental house, Amritsar. They have misappropriated my dowry articles. All the accused cheated me on the pretext of greed for dowry and harass me physically and mentally. Both the accused in connivance with each other posted my mobile no. on the PORN site. For that reason I got insulted. Both the accused are indulging immoral activities. It is therefore, requested that action be taken against the abovestated accused persons for their indulgence in immoral activities and for cheating me and compelled me to indulge in it and for pasting my mobile number on the photographs of indecent ladies and for destroying my reputation, and for harassing me physically and mentally and for demanding dowry and for thrown me out of house. Legal Action shall be taken against them so that I got justice. So that life of any other girl may not be spoiled. I shall be thankful to you. ”

3. Learned counsel for the petitioner *inter alia* submits that the petitioner has been falsely implicated in the present case. It is stated that both parties were

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previously married, and this is the second marriage for each of them. He further submits that the allegations levelled in the FIR are highly improbable and the petitioner never demanded any money from the complainant and her family. It was also contended that the marriage, solemnized on 20.04.2020, occurred during the COVID-19 lockdown and was performed through a simple chunni ceremony. The counsel further denied the allegations of uploading obscene photographs of the complainant, asserting that the case was maliciously filed by the complainant at the instigation of the petitioner's neighbors, with whom he has ongoing litigation.

4. *Per contra*, learned State counsel while relying upon status report submits that the enquiry stemmed from a complaint filed by complainant, alleging that her husband uploaded her mobile number on obscene platforms using a Facebook ID. The investigation revealed that the petitioner had changed the name of his Facebook account from "L Ramgarhia" to "Leena Canada" and used it to circulate objectionable content. A report from Meta Platforms confirmed that the account was linked to the petitioner's mobile number. During the enquiry, the petitioner admitted to the act, claiming it was done in anger.

Learned State counsel further submitted that the petitioner did not cooperate with the investigation despite multiple notices under Section 41-A Cr.P.C. He failed to produce a device suspected to have been used for the alleged acts and did not facilitate the recovery of dowry articles, including gold ornaments, misappropriated during the marriage. Call detail records and forensic analysis of the petitioner's mobile phones confirmed his involvement, though one suspected device remains un-recovered.

5. Heard the rival submissions made by learned counsel for the parties and perused the record.



6. In ***Srikant Upadhyay and others vs. State of Bihar and another, 2024 (INSC) 202 (SC)***, Hon'ble Supreme Court held as under:

*“It is thus obvious from the catena of decisions dealing with bail that even while clarifying that arrest should be the last option and it should be restricted to cases where arrest is imperative in the facts and circumstances of a case, the consistent view is that the grant of anticipatory bail shall be restricted to exceptional circumstances. In other words, the position is that the power to grant anticipatory bail under Section 438, Cr.P.C. is an exceptional power and should be exercised only in exceptional cases and not as a matter of course. Its object is to ensure that a person should not be harassed or humiliated in order to satisfy the grudge or personal vendetta of the complainant. (See the decision of this Court in *HDFC Bank Ltd. v. J.J.Mannan & Anr.* 2010 (1) SCC 679).*

*Further, it was clearly observed in para NO. 24 of the judgment (supra) that “**though in many cases it was held that bail is said to be a rule, it cannot, by any stretch of imagination, be said that anticipatory bail is the rule.** It cannot be the rule and the question of its grant should be left to the cautious and judicious discretion by the Court depending on the facts and circumstances of each case. While called upon to exercise the said power, the Court concerned has to be very cautious as the grant of interim protection or protection to the accused in serious cases may lead to miscarriage of justice and may hamper the investigation to a great extent as it may sometimes lead to tampering or distraction of the evidence. We shall not be understood to have held that the Court shall not pass an interim protection pending consideration of such application as the Section is destined to safeguard the freedom of an individual against unwarranted arrest and we say that such orders shall be passed in eminently fit cases. At any rate, when warrant of arrest or proclamation is issued, the applicant is not entitled to invoke the extraordinary power. Certainly, this will not deprive the power of the Court to grant pre-arrest bail in extreme, exceptional cases in the interest of justice. But then, person(s) continuously, defying orders and keep absconding is not entitled to such grant.”*

7. In ***Sushila Aggarwal v. State (NCT of Delhi) (2018) 7 SCC 731***, the Constitution Bench reaffirmed that when considering applications for anticipatory bail, courts should consider factors such as the nature and gravity of the offences,



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the role attributed to the applicant, and the specific facts of the case.

8. In *Siddharam Satlingappa Mhetra v. State of Maharashtra & Ors. reported in (2011) 1 SCC 694* rendered in the context of the discretion to grant Anticipatory Bail under Section 438, Hon'ble Supreme Court advocated the need to balance individual personal liberty with societal interest and observed:-

“84. Just as liberty is precious to an individual, so is the society's interest in maintenance of peace, law and order. Both are equally important.”

9. There are serious allegations levelled against the petitioner. The allegations against the petitioner, including harassment, dowry misappropriation, and uploading the complainant's details on objectionable platforms, are grave. Custodial interrogation is essential for retrieving missing evidence and completing the investigation. Accordingly, to unearth the true dimension of the alleged crime, this Court does not deem it appropriate to interfere in the matter so as to grant the concession of anticipatory bail to the petitioner at this stage.

10. The petition is dismissed.

11. Needless to mention that the observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

12. Pending application(s), if any, also stands disposed of accordingly.

(KIRTI SINGH)
JUDGE

22.01.2025

Kavita

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No