

**IN THE COURT OF Ms. ARCHNA KAMBOJ, ADDITIONAL
SESSIONS JUDGE, GURDASPUR.**

UNIQUE IDENTIFICATION CODE NO. PB0202

Bail application No. 345 dated 10.09.2020

Date of Decision: 10.09.2020

CIS no. BA-2964-2020

1. Surinder Singh son of Pritam Singh
2. Gurmeet Kaur wife of Surinder Singh
3. Pritpal Singh son of Surinder Singh
4. Kanwaljit Kaur wife of Pritpal Singh

All residents of village Tibber, Tehsil and District Gurdaspur

applicants/accused

Sulakhani Kaur daughter of Balwinder Singh, resident of village Kaler
Kalan, P.S. Sekhwan, Tehsil and District Gurdaspur

....Respondent

2nd BAIL APPLICATION U/S 438 OF THE CRPC

Present: Shri Rahul Vashisht, Advocate learned counsel for accused/
applicants. (through video conference)
Ms.Sumandeep Kaur , Advocate, counsel for
respondent/complainant. (through video conference)

O R D E R

1. This order of mine shall dispose of bail application under
Section 438 of Cr.P.C filed on behalf of above said accused/applicants in
the aforementioned case.
2. Notice of bail application was issued to
respondent/complainant, consequent upon which learned for
respondent/complainant had put in appearance. Record of learned trial
court has been received.
3. I have heard the learned counsel for accused-applicants,

learned counsel for respondent/complainant (both through video conference) and have also perused the record very minutely with their able assistance.

4. It is submitted in the application as well as argued on behalf of accused-applicants that the applicants are innocent and law abiding citizens of India. It has further been submitted that the respondent got married with the son of applicant No. 1 namely Partap Singh and after the marriage, matrimonial dispute arose between the respondent and her husband because of the negative attitude of respondent towards her husband and her in-laws family. It has further been submitted that the respondent earlier moved a complaint U/S 406, 498-A, 506, 34, 120-B IPC against the applicants, Partap Singh and Amritpal Singh (relative of applicants) and the trial was commenced against Partap Singh, but all the applicants were not summoned by the trial Court. It is pertinent to mention here that the husband of respondent i.e. Partap Singh was also got acquitted vide order and judgment dated 05.04.2016 by the court of Sh. Rajinderpal Singh Gill, the then learned Judicial Magistrate Ist Class, Gurdaspur. The husband of respondent then filed petition U/S 13 of HMA against the respondent and divorce was granted to the husband of respondent vide judgment dated 02.03.2020, by the court of Sh. Prem Kumar, learned Principal Judge Family Court, Gurdaspur. It has further been submitted that after the acquittal of the Partap Singh from the above mentioned complaint under section 498-A, 406 IPC etc. the respondent and her family members got annoyed and attacked the applicants in their house on 19.09.2016 and inflicted injuries on the person of applicant No.2

and her nephew. Therefore FIR No. 47 dated 20.09.2016, under sections 452, 326, 323,324, 427, 148, 149 IPC was got registered at P.S. Tibber against respondent and her family members. The trial is also pending before the court of learned Additional Chief Judicial, Magistrate, Gurdaspur. It has further been submitted that present complaint moved by the respondent is not maintainable as the allegations leveled in para No.1 to 4 have already been adjudicated twice by the learned Judicial Courts vide judgment dated 05.04.2016 and then 02.03.2020. Therefore similar complaint on the basis of same allegations carries no value. The allegations leveled in para No.5 to 8 carries no ring of truth and the same are concocted by the respondent just as counter blast the FIR No. 47 dated 20.09.2016. It is pertinent to mention here that the accused No.9 in the complaint had already died much before the alleged occurrence dated 19.09.2016 in the the complaint, therefore claim of respondent is prima facie proved to be false and a mere bundle of lies. It is further pertinent to mention here that the allegations leveled by the respondent in the complaint have already been investigated by an IPS Officer and the same was found false in enquiry. It has further been submitted that the respondent moved false complaint against the applicants and others by suppressing material facts from the court, in which the applicants were got summoned by the court of Ms. Harsimranjit Kaur, learned Judicial Magistrate 1st Class, Gurdaspur U/S 498-A, 342, 326, 323, 324, 325 IPC to appear before the Hon'ble Court on or before 22.09.2020. It has further been submitted that since it is complaint case, so custodial interrogation is not required. Only presence of applicants is

required and they are ready to appear before the learned Trial Court to face trial. It has further been submitted that the applicants have been summoned in non-bailable offences and applicants have reason to believe that they would be arrested at the time of appearance before the learned Trial Court. It has further been submitted that earlier similar bail application was filed and the same was withdrawn from this court with the permission to file fresh one. In support of his contention learned counsel for accused-applicant has placed on record copy of FIR No. 47 dated 20.09.2016, P.S. Tibber, under sections 452, 326, 323,324, 427, 148, 149 IPC, copy of judgment dated 05.04.2016 in case titled “Sulakhani Kaur Vs Partap Singh and others” passed by the court of Sh.Rajinderpal Singh Gill, the then learned Judicial Magistrate 1st Class, copy of judgment dated 02.03.2020 in case titled “ Partap Singh Vs Sulakhani Kaur” passed by the court of Sh. Prem Kumar, learned Principal Judge Family Court, Gurdaspur and finally prayer for granting them anticipatory bail has been made.

5. On the other hand, while controverting the contentions put forth by learned counsel for accused-applicant, learned counsel for complainant/respondent vehemently argued that accused/applicants are not entitled to concession of anticipatory bail as serious allegations have been leveled against him and prayed for its dismissal.

6. After hearing rival contentions of learned counsel for both the parties and perusing record of learned trial court, it transpires that present accused-applicants have been summoned in a complaint case filed by complainant Sulakhani Kaur under Section 498-A, 354, 342, 325,324,

323, 148 & 149 IPC, P.S. Tibber, wherein inter-alia, it has been alleged that complainant Sulakhani Kaur got married to Partap Singh son of Surinder Singh on 01.02.2009. One son namely Damanpreet Singh was born out of the said wedlock on 09.02.2010 and he is residing with the complainant. At the time of marriage, father of complainant gave sufficient dowry as per his capacity. A car was given which was registered in the name of complainant but is in custody of the husband of complainant. After the marriage, in-laws of the complainant maltreated her for bringing less dowry. When the complainant was pregnant, they did not get her proper medical treatment. All the medical expenses including those of delivery were borne by her parents. When the son of complainant was one and half month old, her in-laws expelled her out of the matrimonial house after giving her severe beatings. Later on, the matter was compromised with the intervention of respectables but she was expelled again out of her in-laws house in April 2011. Again respectables intervened and the matter was compromised and the complainant was sent to Army Unit, Jalandhar to reside with her husband. Her husband tried to kill her and expelled her out of the quarter. Since June 2011, complainant is residing with her parents. The matter was reported to the police but no action was taken. The complainant filed an application under Section 125 Cr.P.C. for maintenance, which was allowed. She also filed a petition under-Section 9 HMA for restitution of conjugal rites, which was decreed in favour of complainant on 03.09.2016. In compliance of the said order, complainant alongwith her father Balwinder Singh, her brother Ranjodh Singh, her minor son Damanpreet Singh, other relatives and Panchayat of

village went to her in-laws house on 19.09.2016. On the said date, at 12:00 Noon, they reached the house of her in-laws. All the accused were present there. They had already conspired against the complainant and other persons. They locked the main gate and attacked them with deadly weapons including stikes, dattars, kirpans etc. The car in which the complainant came was also damaged by them. Gurmeet Kaur (accused No. 2) mother-in-law of complainant raised lalkara and asked sister-in-law of complainant Kawaljit Kaur (accused No. 4) and her maternal mother-in-law Bholi (accused No. 8) not to leave the complainant alive and that she has not given any property. On seeing this, accused No. 2 Gurmit Kaur, accused No.4 Kawaljit Kaur and accused No. 8 Bholi caught the complainant and dragged her from her hair and took her outside the room and gave her beatings. Accused No. 1 Surinder Singh caught hold her of her neck and tried to kill her. Accused No. 3 Pritpal Singh also caught the arms of complainant and accused No. 10 Narinder Singh tore off her clothes and outraged her modesty. Accused No. 13 Amritpal Singh slapped her face and used abusive and vulgar language and threatened her. Accused No. 11 Mandeep Singh took brick and tried to hit her, which landed on the glass window and the pieces of said glass hit on the hands of accused. Thereafter, accused No.5 Pinder Singh, accused No.11 Mandeep Singh and accused No. 12 Sabbi snatched the earrings, gold chain and cash worth Rs. 50,000/- from the complainant. All the accused also caused severe injuries to her father and brother. Thereafter, they detained them in their house. The Panchayat of the village saved them from the accused. The complainant informed the

police on helpline No.181 from number 1378994. A lady constable came into the house of complainant and changed her torn clothes and took the complainant to Police Station along-with her, father and brother of complainant were already there. However, no action was taken against the accused but accused No.14 ASI Harjinder Singh detained them illegally. She was set free at about 8:30 PM but her brother and father were detained illegally upto 21.09.2016 and an FIR was registered against them under-sections 452, 323, 324, 427, 148 & 149 IPC on 21.09.2016. Thereafter, the complainant moved the petition under-Section 482 Cr.P.C. for issuance of proper direction to the accused party but still no action has been taken by the police. The complainant was going to the hospital for her medical, then accused No. 1 Surinder Singh, accused No. 3 Pritpal Singh, accused No. 5 Pinder Singh, accused No. 6 Balwinder Singh, accused No. 7 Arwinderjit Singh, accused No. 9 Lal Singh, accused No. 10 Narinder Singh and accused No. 13 Amritpal Singh stopped them. They had deadly weapons. Accused No. 3 Pritpal Singh gave datar blow, which hit on the left forearm of complainant. Accused No. 13 Amritpal Singh gave dang blow, which hit on her forehead. The Panchayat of the village saved the complainant when she raised alarm. Accused fled from the spot along with their weapons. The Panchayat of the village took the complainant to the Civil Hospital, Gurdaspur but due to political pressure and intervention of the accused, her medical was not conducted there and the complainant went to Civil Hospital, Batala, where she was treated on 20.09.2016. Complainant moved application to higher authorities but no action has been taken against the accused. The accused nursed grudge

against the complainant as she had filed litigation against her husband and her in-laws did not want to keep her.

7. After hearing rival contentions of learned counsel of both the parties and perusing the record, it transpires that present accused/applicants had been summoned to face trial for the offences punishable under Section 498-A, 354, 342, 325, 324, 323, 148 & 149 IPC in a complaint titled as Sulakhani Kaur Vs. Surinder Singh by the Court of Ms. Harsimranjit Kaur, learned Judicial Magistrate 1st Class, Gurdaspur. As it is evident, nothing is to be recovered from accused/applicants in the present case and their custodial interrogation is not required. In the given circumstances, without dilating further on the merits of case, the Court is of the opinion that no useful purpose is to be served by sending the applicants behind the bars as their custodial interrogation is not required. Allegations leveled against the accused/applicants shall come into light, when the evidence will be lead by both the parties. Keeping in view aforementioned circumstances the bail application is allowed with the observations that applicants will surrender before the concerned learned Trial Court/ Illaqa Magistrate/Duty Magistrate within 15 working days from today and in the event of arrest, they shall be released on bail on execution of the bonds to the satisfaction of concerned learned Trial Court/Illaqa Magistrate/Duty Magistrate.

8. Although this bail application is being allowed, but it is made clear that nothing as expressed in the said order shall have any bearing on the merits of the main case. Copy of this order be sent to the concerned court immediately. File of Learned trial court be

returned forthwith after due compliance. Papers of the present bail application be consigned to Record Room Gurdaspur.

Pronounced in the open Court
Dated: 15.09.2020
Krishan Goyal Steno-II

(Archna Kamboj)
Addl. Sessions Judge,
Gurdaspur. UID no. PB0202