

IN THE COURT OF HARREET KAUR KALEKA,
ADDL. SESSIONS JUDGE; SAS NAGAR MOHALI

CIS No. BA/ 2156/2021

CNR No.PBSA0100-7413-2021

Date of Decision: 17.09.2021.

1. Om Parkash Julka, aged 81 years son of Sh. Babu Lal,
2. Veena Julka, age 72 years wife of Sh. Om Parkash Julka, Both are residents of Moti Bagh Street No.1, Near Alohran Gate, Nabha, Tehsil Nabha, District Patiala, Punjab (India).

..... Applicants/accused.

versus

State of Punjab.

.....Respondent

....

Bail application under Section 438 Cr.P.C in case

FIR No. 0416 dated 20.07.2021,

Under Sections: 417,498-A,34 of IPC, Later added
Section 406 of IPC.

Police Station: Zirakpur, District SAS Nagar.

Present:-

Sh. C.M. Munjal, Advocate for counsel for the
applicants-accused.

Sh. Dilpreet Singh, Additional Public Prosecutor for
State.

Ms. Pranita Jha Sharma, Adv. Counsel for the
complainant.

Complainant Alka Sharma, in person.

ORDER

1. This order of mine shall dispose of bail application filed under Section 438 Cr.P.C. by applicants/accused in FIR No.0416 dated 20.07.2021, Under Sections 417,498-A, 34 of IPC, later added Section 406 of IPC, Police Station Zirakpur, District SAS Nagar (Mohali).

(Harreet Kaur Kaleka)
Addl. Sessions Judge,
SAS Nagar Mohali.
UID No.PB0127

2 . Notice of the bail application was given to learned Additional Public Prosecutor for the State and police record has been summoned and perused.

3. I have heard respective contentions of the learned counsel for the bail applicant-accused and learned Additional Public Prosecutor for the State as well as learned counsel for the complainant.

4. The brief facts of the case are that the present FIR was registered in pursuance of order dated 28.05.2021 of Sh. Gaurav Dutta, PCS, Ld. JMIC, Dera Bassi. According to the complaint she was married to one Prashant Julka in the year 2016. It is alleged that he was married to one Amanda in the year 2004 and divorced her in 2017 and also married another girl named Monica Arora in the year 2005 and divorced her in the year 2013. It is further submitted that this fact was not disclosed to the applicant/complainant regarding his second marriage and further he had married her during the subsistence of his marriage with one Amanda. Further, respondents no.3 to 6 mentally and physically harassed the applicant. It is further stated that her husband filed a false complaint in UK on 24.04.2000. He also did not disclose his medical status of being HIV positive. It is further submitted that the accused have cheated her by not disclosing the correct marital status and medical condition of her husband. Hence, the present FIR was registered.

5. During the course of arguments it is submitted by the counsel for the applicants/ petitioners that they are parents of the husband

of the complainant. The marriage was not solemnized in 2016, but on 16.05.2017 and in support of the same they have placed on file photocopies of the invitation cards of both the families as well as marriage certified issued by Registrar Marriages, Nabha wherein status of the son of the applicants is stated as divorcée and that of the complainant is shown as unmarried and date of marriage is specifically stated on 16.05.2017. It is submitted that the boy had filed a complaint in U.K. against the present complainant on 24.04.2020 and the parties lived together in UK and the question of torture by the present applicants does not arise at all. Finally prayed that bail application may kindly be allowed.

6. On the other hand, learned Additional Public Prosecutor for the State has opposed the bail application and prayed for dismissal of the same.

7. Upon hearing the respective contentions of learned counsel for the applicants, learned learned Additional Public Prosecutor appearing on behalf of the State as well as learned counsel for the complainant and going through the record carefully, I find that the applicants have already been directed to join the investigation under Section 417, 498-A, 34 of IPC vide order dated 17.08.2021. Admittedly thereafter offence under Section 406 IPC has been enhanced against the present applicants to the effect that they may also be released on interim bail under Section 406 of IPC.

8. I find that according to the complainant jewellery was give

at the time of marriage consisting of gold one set, bangles and ring etc. She has also placed on file some photograph showing one gold set and gold two bangles. There is no bill or picture of any other jewellery. Even the bill of alleged gold set is not produced. It is admitted fact that the complainant joined her husband in England , so it can not be imagined that she being educated lady had left her jewellery in India with her parents-in-law. Further more, there is no averments of dowry and jewellery in the FIR. The said FIR was registered on the directions of the then Ld. JMIC, Dera Bassi. No averments of misappropriation of dowry had been made. During the course of arguments it is submitted by the learned counsel for the applicants that no averment was made by the complainant before the proceedings in the NRI Cell or in the court or before the police. It is only an after thought when the applicants had been granted interim bail and asked to join the investigation vide order dated 17.08.2021. Even, otherwise, during the course of arguments it is offered by the learned counsel for the applicants/accused that they are ready to deposit some cash amount before the learned trial court/ Illaqa Mgistrate to compensate the complainant, if it is found during trial that she had given some jewellery as gifts to the applicants. As the applicants had already been directed to join the investigation under Section 417,498-A, 34 of IPC, I find that no useful purpose would be served by taking them in custody for the recovery of alleged jewellery. Therefore, they are directed to deposit Rs.2 Lacs as security before the Illaqa Magistrate/ Duty

Magistrate to compensate the complainant, if during trial it is found that she had given some jewellery as gifts to the applicants and they had misappropriated the same.

9. Therefore, keeping in view above discussion, the applicants/accused are directed to join the investigation within 10 days under Section 406 IPC also and in event of their arrest shall be admitted to interim bail on furnishing their bail/surety bonds to the satisfaction of I.O./Arresting Officer, subject to the conditions mentioned in Section 438(2) Cr.P.C. and they will cooperate with the investigating agency.

I.O. is directed to join the accused-applicant in investigation by maintaining social distancing and by following all the precautions as prescribed for the prevention of Coronavirus.

Any observation made above shall have no effect on the merits of the case

Now, to come up on 30.09.2021 for compliance report as well as the outcome of investigation.

Pronounced in open court
Dated: 17.09.2021.

(Harreet Kaur Kaleka)
Additional Sessions Judge,
SAS Nagar Mohali.
(UID No.PB0127)

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(Harreet Kaur Kaleka)
Addl. Sessions Judge,
SAS Nagar Mohali.
UID No.PB0127