

IN THE COURT OF DR RAM KUMAR SINGLA,
UID No. PB-0122,
ADDITIONAL SESSIONS JUDGE,
KAPURTHALA.

CNR No.
PBKP010038672020



Case No. BA/1905/2020

Presented on : 24-09-2020
Registered on : 25-09-2020
Decided on : 13-10-2020

Anuj Ghai, s/o Ajay Ghai, aged about 25 years, r/o WH/9, Basti Road,
Tara Health Club, Jalandhar.

..... Applicant/accused.

Versus

State of Punjab.

..... Respondent.

FIR No.277 of 08.09.2020,
Under Sections 406, 498-A of Indian Penal Code,
Police Station – City, Kapurthala.

Application for anticipatory bail under Section 438 Cr.P.C.

Present: Sh. Rajiv Puri, Advocate for the applicant/accused.
Sh. Arvind Sahai, Additional PP for the State.
Sh. Vikas Khanna, Advocate for the complainant.

O R D E R

The present bail application has been entertained being
an urgent hearing while performing duty in the period of closure of
courts because of pandemic Covid-19.

2. Record perused. **Arguments have been heard** on anticipatory bail application of present applicant/ accused in FIR No.277 of 08.09.2020.

3. Briefly, the facts and circumstances on record necessary to be detailed herein for consideration of the present bail application of the applicant/ accused, who has been found as husband of the complainant (name concealed finding the allegations of rape, hereinafter referred as complainant), that the present case has been found got registered after due enquiry of the allegations as made by complainant against her husband and her father-in-law. However, the complainant had also made allegations against her sister-in-law and husband of her sister-in-law, but against whom the case has been found not registered.

4. The version of the complainant is that her marriage with her husband was performed on 06.02.2019 at Kapurthala, with great pomp and shows by spending of Rs.19-20 lacs, whereby jewellery of 15 tolas of gold was given and about 150-200 persons of her in-laws were served in that marriage by spending a sum of Rs.5 lac. The complainant is fatherless. The entire ceremonies were performed by her mother. The husband of the complainant i.e. applicant is serving in ICICI Bank. The mother-in-law of the complainant was expired just a few months ago of her marriage. The complainant found all alone female in her matrimonial house as the other family members of her in-laws family were her husband and her father-in-law. Initially, the husband of the complainant

and her father-in-law had raised the demand of a car etc., which was not given in that marriage. She was repeatedly taunted by raising that demand.

5. Apart from that, the father-in-law of the complainant was found having an evil eye upon the complainant by teasing her and compelling her to take liquor in the absence of husband of the complainant. The husband of the complainant was intentionally used to leave the complainant at her matrimonial along with her father-in-law with the pretext to leave for Ashram. The complainant had repeatedly made aware to her husband about the unwarranted acts of the father-in-law of the complainant with the complainant, but he never bother the same.

6. In the night of 06.10.2019, she was all alone along with her father-in-law as her husband had gone to attend a marriage and he did not turn up on that night. In the evening hours of 06.10.2019, her father-in-law might have consumed some intoxicant to the complainant, whereby she lost her consciousness. In the morning hours, the complainant found lying naked along with her father-in-law, who was also naked. Her father-in-law committed rape with her on that night by consuming some intoxicant to the complainant. The complainant again informed about that act of her father-in-law to her husband, whereby she was threatened with dire consequences by her husband, whereas previous to that she was regularly facing threatening act of her father-in-law and her husband. The

aforesaid act of dated 06.10.2019 with the complainant became another cause of quarrel in between the complainant with her in-laws. Thereafter, on 17.10.2019, she was left at her parental house at Kapurthala. She delivered a child at her parental house.

7. A written complaint to that allegations as made by the complainant against her husband and father-in-law led to enquiries before the Police and Executive Authorities. Finally, getting the opinion of District Attorney, the present FIR was registered just for the offence punishable under sections 406, 498-A of Indian Penal Code. Aggrieved therefrom, the present applicant/accused has preferred the present application for his anticipatory bail.

8. The learned counsel for the applicant has argued that he has been falsely implicated in the present case. It is nothing to warrant his custodial interrogation. The entire marriage was a simple one and without any dowry. The enquiries as got conducted through Police and Executive Authorities have found no substance to that allegations as made by the complainant against the present applicant and her father-in-law. The formal FIR has been registered for the offence punishable under sections 406, 498-A of the Indian Penal Code by ignoring the allegations of alleged rape against the father of present applicant, as no substance of that allegations was found. Moreover, the mother-in-law of the complainant was already expired, so, there was no question to give any such jewellery at the name of her mother-in-law. All the allegations as made by the

complainant have been found false against the sister-in-law and her husband. The complainant tried to implicate the entire family of the applicant with false and frivolous allegations. The applicant is ready to join the formal investigation proceedings as he has already faced regular enquiry before the Police and Executive Authorities. Therefore, the applicant is entitled to the concession of anticipatory bail though the anticipatory bail application of father of the applicant has been declined. The present applicant is not at the same footing as that of his father to that allegations as have been made by the complainant.

9. The learned Addl.PP for the State has argued that the said unwarranted act of the applicant/ accused and that gravity of offence does not warrant the concession of anticipatory bail to the applicant/accused. No doubt some of the allegations against the present applicant are different than that of against his father, but the present applicant has been found principal man to that episode of crime against the complainant. Thorough probe of that allegations is warranted by way of custodial interrogation, at least to recover the valuable articles of the complainant and to give the logical end to that unwarranted act. Therefore, he is not entitled to the concession of anticipatory bail and it is liable to be dismissed.

10. The learned counsel for the complainant has vehemently argued that the investigation agency is hand in gloves with the accused persons, which has not only held false to the allegations of harassment of

the complainant, raising the demand of vehicle, rather have also falsified the allegations of rape of the complainant against the father of present applicant. The Executive Authorities have come forward with the report to file the complaint of the complainant, whereas to the allegations of rape, the victim is the only person to put-forth the story of rape and that allegations could not be falsified by such enquiry proceedings as have been made in the present case. No woman will put such allegations falsely, where her respect is at stake and that too such allegations can never be made against her father-in-law, in whose house she was supposed to spend her rest of the life. Considering the allegations as a whole, as have been made by the complainant and act of the investigation agency, who got registered the present case just completing the formality when it was directed to the investigation agency by the Hon'ble High Court at least to enquire the matter properly on the basis of complaint of the complainant, as observed in CRWP No.3134 of 2020, decided on 21.05.2020. The applicant being husband of the complainant and who is found main conspirator to the entire episode of crime against the complainant, is found not deserving the anticipatory bail in any manner, who has also succeeded to win over the investigation agency.

11. **Having heard to their rival contentions** and have gone through the file and in reference to the above detailed facts and circumstances on record, there are serious and direct allegations of rape allegedly committed by the father of the present applicant/ accused with

the complainant, who has been found father-in-law of the complainant and father of the applicant. Though that allegations have been found false by the enquiry proceedings by the Police and Executive Authorities, but the manner in which that allegations have been found falsified are not acceptable, as the victim of such an offence is the only person to explain her situation qua that allegations, which obviously warranted investigation not enquiry against the accused of that allegations. The enquiry proceedings are found not sufficient to ignore that allegations of rape by the reasons to delay to complain by the complainant or to chat with anyone i.e. her mother after the alleged occurrence. Apart from that, there are specific allegations of the complainant against the applicant and his father to tease her by having the evil eye upon her by the father of the applicant since long, as she was all alone as a female along with her father-in-law i.e. father of the applicant in her matrimonial house in the absence of her husband. The entire episode of said allegations though specifically against the father of the applicant, but the present applicant has also been found conspirator to that allegations as he has found taken no action even against his father to rescue her wife i.e. complainant.

12. It is pertinent to mention here that the complainant has to approach the Hon'ble High Court to take legal action against her in-laws, which is evident from the order dated 21.05.2020 passed in CRWP No.3134 of 2020.

13. Otherwise also, in Indian Society, no woman will put such

allegations falsely, where her respect is at stake and that too such allegations can never be made against her father-in-law, in whose house she was supposed to spend her rest of the life. Further, though the Executive Authorities recommended to file the complaint of the complainant, but considering the report of Police authorities and recommendations of the District Attorney, only the case was registered for the offence punishable under sections 406, 498-A of Indian Penal Code, but that observations against the applicant and his father are reflecting that there was some substance to that allegations as made by the complainant against the applicant and his father. No doubt, the sister and her husband of the husband of the complainant have been held innocent to that allegations. Admittedly, at present complainant is residing with her mother after delivery of her female child. Obviously, the applicant along with his father has retained her dowry articles and she has been shown the door of her matrimonial house by retaining her entire dowry articles with sexual and mental harassment to her. To these allegations, the applicant has been found principal accused of that allegations as made by the complainant.

14. To such a situation, by way of humane behaviour with legal mind, but without commenting on the merits of the case, it is hereby held that thorough probe of that allegations is warranted by way of custodial interrogation of the applicant to give the logical end to that unwarranted act of the applicant along with his father, as referred above. The father of

the applicant is still at large from the investigation agency. Therefore, the applicant is held not entitled to the concession of anticipatory bail and it is held liable to be dismissed.

15. Consequently, the present anticipatory bail of the applicant/accused is hereby declined. This bail application file be consigned to the judicial record room.

Pronounced in open Court.
Dated: 13.10.2020.

Kaushal Kumar

(Dr Ram Kumar Singla),
Additional Sessions Judge,
Kapurthala (Duty). (UID No. PB-0122)

(Directly dictated on computer)