

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 10th DECEMBER, 2021

IN THE MATTER OF:

+ BAIL APPLN. 2029/2018

POORAN SINGH

..... Petitioner

Through Mr. S. V. Rateria, Advocate.

versus

STATE OF DELHI

..... Respondent

Through Mr. Amit Chadha, APP for the
State with SI Sunil, Police Station
Model Town.
Ms. Mallika Parmar, Advocate for
the complainant.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

SUBRAMONIUM PRASAD, J.

1. This application under Section 438 Cr.P.C. has been filed for grant of bail to the petitioner in the event of arrest in FIR No. 56/2018 dated 11.02.2018, registered at PS Model Town for offences under Sections 498-A, 406 and 34 of IPC.

2. The relevant portion of the impugned order *vide* application no – 1680/2018 in FIR no – 56/2018 passed by the Additional Special Judge, Rohini, as extracted from the impugned order dated 04.08.2018 is as follows:

“..... Since, the custodial interrogation of the applicant is required to recover the dowry articles and Istridhan and the complainant is receiving the threat constantly on whatsapp from the applicant. I find no ground to admit the accused on bail, at

“this stage.....”

Aggrieved by this impugned order, the petitioner herein has filed the present bail application.

3. The factual matrix which has transpired in this case is as under –:
 - a) A complaint was filed by Anjali Sogarwal on 13.04.2017 to the SHO, PS Model Town, The DCP, Model Town and the Deputy Commissioner of Police, EOW office stating that her husband Pooran Singh who is the petitioner herein, her mother-in-law Ratna Devi and both her sisters-in-law Kamlesh and Lata had insulted, beaten, pressurized, harassed and tortured the complainant for more dowry and threatened that if the complainant wanted a peaceful life, her father must further arrange a dowry amount of Rs. 50 Lacs.
 - b) It was also stated that the petitioner herein illegally procured the complainant’s SIM card from the service provider and uploaded pictures of his wife i.e. the complainant on social media websites and it is also stated that the petitioner sent abusive/insulting messages from the complainant’s social media accounts to the friends of the complainant with malafide intentions. Based on the said complaint, FIR No. – 56/2018, dated 11.02.2018 was registered at PS Model Town, North West Delhi for offences under Sections 498-A, 406 and 34 of IPC.
 - c) It is stated that on 16.02.2017, the complainant’s father transferred Rs. 90 thousand into the accused’s account and Rs. 1.5 Lacs into the complainant’s account which was further transferred into her husband’s account.

- d) It is further stated that on 21.01.2017, the petitioner herein invited three female friends of the complainant, one male friend, both the complainant's brothers and one relative of the accused, namely, Ravi. It is stated that the petitioner herein mixed alcohol and served it to all her friends and took inappropriate photos and threatened them that he would upload it on the internet.
 - e) It is also stated that the petitioner herein has taken the *Istridhan* of the complainant and forcibly given it to his mother. It is stated that on 09.03.2017, the petitioner herein fought with the complainant and threw her out of the house and that the passport, ID and clothes of the complainant is with her husband who is the petitioner herein. It is also stated that the petitioner herein used all these documents to procure the SIM card from the service provider and logged into the complainant's social media accounts by using the mobile number.
 - f) It is also stated that the petitioner herein forced the complainant to bring money from her parents and the complainant had to go through physical, mental and emotional torture.
 - g) It is also stated that the petitioner herein forcibly committed explicit and unnatural relationship and also showed inappropriate pictures to her.
 - h) It is also stated that on 25.03.2017, the petitioner herein was harassing the complainant after which the complainant called the Women helpline number 1091.
4. A Complaint was filed by the petitioner herein dated 20.03.2018 to the Commissioner of Police, I.P. Estate, ITO, New Delhi against the

complainant i.e. Anjali Sogarwal, the complainant's father i.e. Ramphal Singh, the complainant's mother i.e. Sarngi, complainant's brothers Amit Sogarwal and Mohit Sogarwal. It was stated in the complaint that Anjali Sogarwal (wife of petitioner) was not happy with her marriage and used to abuse her husband who is the petitioner. It is stated in the complaint that the petitioner was threatened by the complainant's father stating that he works as an officer in Delhi Police Department and the accused should obey the complainant's wishes, otherwise he would face dire consequences. It is also stated that on 10.03.2017, the wife of the petitioner left the house without giving any reason. It is also stated that the complainant lodged a written complaint at the CAW Cell, New Delhi against the petitioner herein under Section 12 of the Domestic Violence Act, 2005, which is pending before Rohini, District Court, Delhi and also filed the present FIR no – 56/2018.

5. Status report was filed which stated that on 10.06.2017, the complainant received a text message from the petitioner admitting that he was lying throughout. He also admitted that all the jewellery, passport and other personal belongings of the complainant are with the petitioner and that the petitioner hacked the Facebook account of the complainant by using her SIM which was illegally procured. Further, he exerted pressure on the complainant's friends to extract more information on the complainant. On 30.08.2018, the petitioner herein moved an anticipatory bail application before this Hon'ble Court and this Court granted interim protection to the petitioner herein, subject to him joining the investigation. The petitioner herein joined the investigation, but did not cooperate during the investigations.

6. Mr. S. V. Rateria, Learned counsel for the Petitioner, states that the wedding of the petitioner and the complainant took place on 08.12.2016 and the complainant left her matrimonial house on 10.03.2017 without any rhyme or reason, and since then she has been residing at her parental house. The learned counsel submitted that the father of the complainant is Assistant Sub Inspector in Delhi Police and that he is threatening the petitioner herein and his family with dire consequences. He also submitted that the petitioner herein has joined the proceedings before the CAW Cell and the investigation before the concerned Investigating Officer. The learned counsel for petitioner also stated that the FIR no – 56/2018 does not contain any specific allegations regarding the entrustment of Istridhan against the accused. The Learned Counsel for the Petitioner relied on the case of *Neera Singh v. State, CRLMC-7262/2006* regarding the justification of marriage expenses, observing that the complainant needs to provide necessary documents to make a prima facie case in her favour. The Learned Counsel for the Petitioner prayed to enlarge the Petitioner on bail in case of his arrest in FIR no – 56/2018

7. *Per contra*, Mr. Amit Chadha, Learned APP for the State, and Ms. Mallika Parmar, Learned Advocate for the complainant, vehemently opposed the Bail Application by submitting that custodial interrogation of the Petitioner is required to recover the dowry/Istridhan articles and the recovery of the mobile phone which was used for sending messages to the complainant and from which the complainants Facebook account's hacking was done.

8. Heard Mr. S. V. Rateria, Learned counsel appearing for the

petitioner, Mr. Amit Chandha, Learned APP for the State and Ms. Mallika Parmar, Learned advocate for the complainant and perused the material on record.

9. The Petitioner is accused of offence under Sections 498-A, 406 IPC. The perusal of the status report shows that the custodial interrogation of the Petitioner is being sought only for recovery of *Istridhan*. The recovery of *Istridhan* alone cannot be a reason to deny anticipatory bail to the Petitioner. The police are vested with sufficient powers under the Cr.P.C to conduct searches of premises. Further, the material on record shows that there are cross-complaints. The petitioner had filed a complaint in 2018 stating that the complainant's father is threatening him. There is nothing on record to show that the Petitioner and his family are in such a position that they would be able to threaten the witnesses. It is trite law that the Police Officer before arresting the accused who is accused of offence which is punishable with imprisonment for a period of seven years has to be satisfied that such arrest is necessary to prevent a person from committing any further offence; or for proper investigation of the case; or to prevent the accused from causing the evidence of the offence to disappear; or tampering with such evidence in any manner; or to prevent such person from making any inducement, threat or promise to a witness so as to dissuade him by disclosing such facts to the Courts or the Police Officer; or unless such accused person is arrested, his presence in the court whenever required cannot be ensured. As Stated earlier, the mere fact that the recovery of *Istridhan* cannot be the sole ground for arresting a person for an offence under Sections 498-A and 406 IPC.

10. For the above said reasons, this Court is inclined to grant bail to the Petitioner in the event of arrest on the following conditions:

- a) The Petitioner shall furnish a personal bond in the sum of Rs.50,000/- with two sureties of the like amount, one of them should be a relative of the Petitioner, to the satisfaction of the Investigating Officer/SHO concerned;
- b) The Petitioner is directed to reside at the address mentioned in the Memo of Parties i.e. House No. – C - 4/7, 3rd Floor, Street No. - 1, Acharya Niketan, Mayur Vihar, Delhi, 110091. If there is any change in the address, he is directed to intimate the same to the Investigating Officer;
- c) The Petitioner is directed to report to the concerned Police Station twice in a week i.e. every Tuesday and Friday and shall join the investigation as and when required by the Investigating Officer and an advance intimation of 24 hours be given to the Petitioner;
- d) The Petitioner is directed to give all his mobile numbers to the Investigating Officer and to keep them operational at all times;
- d) The Petitioner directed to attend all the proceedings of the Trial Court through Virtual Court or physically.
- e) The Petitioner is directed not to threaten and contact the complainant or her family. In case Petitioner attempts to do so, his protection shall stand forfeited.
- f) Violation of any of the above conditions by the Petitioner would result in the immediate cancellation of the

bail granted.

11. The application stands disposed of along with all the pending application(s), if any.

12. Be it noted that this Court has not made any observations on the merits of the case.

SUBRAMONIUM PRASAD, J

DECEMBER 10, 2021

S. Zakir

HIGH COURT OF DELHI



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