

(2022) 05 DEL CK 0041

In the Delhi High Court

Case No : Bail Application No. 145 Of 2021

Manish Dev Malhotra

APPELLANT

Vs

State Of Nct Of Delhi

RESPONDENT

Date of Decision : 06-05-2022

Acts Referred:

Indian Penal Code, 1860 — Section 34, 406, 498A

Citation : (2022) 05 DEL CK 0041

Hon'ble Judges : Rajnish Bhatnagar, J

Bench : Single Bench

Advocate : Rajive Maini, Shriya Maini, Amit Ahlawat, Rhythmsheel Srivastava

Final Decision : Disposed Of

Judgement

Rajnish Bhatnagar, J

1. This petition is filed by petitioner seeking anticipatory bail in FIR No. 358/2020 under Sections 498A/406/34 IPC registered at police station South Rohini.

2. In brief, the facts of the case are that on the complaint of Ms. Bhawana Sharma the present FIR was registered on 13.10.2020, wherein, the complainant stated that she got married to Manish Dev Malhotra (Petitioner herein) on 19.01.2020 and prior to their marriage, it was told that the petitioner is an MBA and he was running a designer studio in Bali Nagar, Delhi and the father of the petitioner was having a factory of Generator Set in Maya Puri, Delhi. The complainant alleged that the family of the complainant spent huge amount to the tune of Rs. 50 lacs in pre-marriage and marriage functions, including belongings given to the petitioner and his family members, which are now lying with the petitioner and his family. It is alleged that the complainant was tortured and taunted, every now and then by her in-laws and was even questioned about her physical relations with the petitioner. The complainant was also forced to resign from service after her marriage and when parents of the complainant came to her matrimonial house to congratulate on her pregnancy, she was forcibly sent to

her parental house and was further subjected to harassment and character assassination by the petitioner and her in-laws. It is alleged that on 18.06.2020, complainant was pressurized for MTP and thus, her brother took her to her parental house, but her in-laws got her missing report lodged despite forcibly sending her to the parental home and it is alleged that the petitioner as well as his family members made no effort to take her back.

3. I have heard the Ld. counsel for the petitioner, Ld. APP for the State assisted by the Ld. counsel for the complainant and perused the status report filed by the state.

4. It is submitted by learned counsel for the petitioner that the petitioner is the husband of the complainant and has been falsely implicated only on the basis of general and vague allegations levelled by her in the FIR. It is further submitted that the FIR reveals no allegations of demand of dowry and the incidents mentioned therein, would only relate to normal wear and tear of marriage. It is further submitted that a false and imaginary list of dowry articles, such as jewelry and gifts has been placed on record by the complainant and the same are currently in custody of the complainant and not with the petitioner. It is further submitted that the petitioner has joined the investigation ten times, more specifically on 26.11.2020, 25.02.2021, 30.04.2021, 13.07.2021, 20.07.2021, 04.10.2021 and 11.10.2021, out of which seven times he has physically joined the investigation and three times over phone. It is further submitted that though the status report alleges that the petitioner has not cooperated in the investigation, however, the status report has failed to assign any reason or explanation as to how the petitioner has not cooperated in the investigation. It is further submitted that the mother-in-law, father-in-law and the sister-in-law of the complainant have already been granted anticipatory bail vide order dated 07.01.2021 and 03.03.2021, respectively, and the petitioner seeks parity. Lastly, it is submitted by learned counsel for the petitioner that no recovery is to be effected from the petitioner and he is also not required for the purpose of custodial interrogation.

5. It is submitted by learned APP for the State assisted by the Ld. counsel for the complainant that the allegations against the petitioner are serious in nature and the conduct of the petitioner is dubious as the petitioner neither got the mobile phone of make Apple submitted as he stated that he had already sold the mobile phone on 12.10.2020 being damaged and nor has taken a firm stand regarding the source of the objectionable photographs submitted by the petitioner before the CAW Cell. It is further submitted that on one hand the petitioner stated that the said photographs were obtained from the complainant prior to marriage and some through Facebook or Instagram, on the other hand, he submitted that the said photographs were obtained from the wardrobe of the complainant. It is further submitted that the recovery of the Apple mobile phone and deciphering the source of photographs is necessary for the sake of investigation as the same will be clear only after sending the photographs, source of photographs and the

mobile phone in FSL. It is further submitted that the petitioner has joined the investigation but has not cooperated in the investigation proceedings and the custodial interrogation of the petitioner is required for recovery of the said mobile phone and for ascertaining the source of the said photographs.

6. The petitioner is the husband of the complainant and has joined investigation on numerous occasions. The three co-accused persons i.e., mother-in-law, father-in-law and sister-in-law are already on anticipatory bail vide order dated 07.01.2021 and 03.03.2021, respectively.

7. There is nothing on record to suggest that there are any allegations of threatening or tampering with the evidence by the petitioner and as far as the contention of the Ld. APP that the custodial interrogation of petitioner is required for recovery of the Apple mobile phone, the petitioner had joined investigation on 20.07.2021 and stated that he has already sold the mobile phone on 12.10.2020 as it was damaged and thus, the same cannot be produced at this juncture. The chats between the parties and the relevant photographs are already part of the records of this case and the same can be proved during the course of investigation and therefore, custodial interrogation of the petitioner is not required for the said purpose.

8. Keeping in view the nature of allegations against the petitioner, the ground of parity and the fact that the petitioner has joined investigation, the interim protection granted to the petitioner vide order dated 14.01.2021 is made absolute and it is directed that in the event of arrest, the petitioner be released on anticipatory bail subject to his furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like amount to the satisfaction of the concerned Arresting Officer/Investigating Officer/SHO of the concerned Police Station.

9. The bail application is disposed of in the above terms and all the pending applications, if any, are also disposed of accordingly.

10. Nothing stated hereinabove shall tantamount to the expression of any opinion on the merits of this case.