
(2023) 05 SHI CK 0052

In the High Court Of Himachal Pradesh

Case No : Criminal Miscellaneous Petition (Main) No. 1089, 1090, 1091 Of 2023

Rama Sood And Others

APPELLANT

Vs

State Of H.P.

RESPONDENT

Date of Decision : 15-05-2023

Acts Referred:

Indian Penal Code, 1860 — Section 34, 498A, 504
Code Of Criminal Procedure, 1973 — Section 41A

Citation : (2023) 05 SHI CK 0052

Hon'ble Judges : Satyen Vaidya, J

Bench : Single Bench

Advocate : Ankush Chauhan, Mohinder Zharaick

Final Decision : Allowed

Judgement

Satyen Vaidya, J

1. All these petitions have been heard and are being decided together, as these arise out of the same FIR and involved identical question of facts and law.

2. Petitioners have prayed for grant of pre-arrest bail in case FIR No. 9 of 2023 dated 13.4.2023, registered under Sections 498A, 504 and 34 IPC at Mahila Police Station, BCS, District Shimla, H.P. on the complaint dated 13.4.2023, made by one Archana Sharma. She has alleged that her marriage was solemnized with Sumit Sood on 26.4.2021. Petitioner in Cr.MP(M) No. 1090 of 2023 is the father of Sumit Sood, petitioner in Cr.MP(M) No. 1089 of 2023 is the mother and petitioner in Cr.MP(M) No. 1091 of 2023 is the sister of Sumit Sood. It is alleged in the complaint that just three days after the marriage, the husband of complainant had started beating complainant for the purpose of forcing her to use contraceptive. Since October, 2022, he had started manhandling the complainant for the demand of car and dowry. Against her mother-in-law, the complainant has alleged that she had always insisted that complainant would not be allowed to bear child for two years. Allegations of misbehave, demand of

dowry have been made against the petitioners, besides husband of complainant.

3. Petitioners have contended that the allegations leveled by complainant are totally false. The complainant already has approached the Court with a complaint under the Protection of Women for Domestic Violence Act against them. It is further submitted that the petitioners have been joining investigation as and when required to do so. No recovery is to be effected from them. Petitioners are permanent resident of Panchwati Building, 2nd Floor, Shiv Puri, Tehsil and District Shimla, H.P. and there is no apprehension or likelihood of their absconding from the course of justice. Petitioners have undertaken to join investigation in future also, if so required.

4. The prayer has been opposed on behalf of the respondent-State on the ground that the husband of complainant is working in France. Petitioners are not providing his correct whereabouts and further investigation cannot be carried till the husband of complainant joins the investigation.

5. I have heard learned counsel for the parties and have also gone through the record carefully.

6. The contents of complaint reveal that the allegation of demand of dowry and harassment against petitioners are general and vague in nature. Specific incident has been highlighted or elaborated. Be that as it may, the allegations are subject to proof.

7. The case was registered on 13.4.2023 and police already has got sufficient time to investigate the matter. Petitioners were admitted to interim bail on 4.5.2023. It is not the case that petitioners had absconded before applying for pre-arrest bail. No reason has been assigned by the respondent for not arresting the petitioners till 4.5.2023 after registration of case. Apparently, their arrest was not required. Compliance under Section 41A Cr.P.C. has also not been shown.

8. There is no allegations against the petitioners that they have not associated themselves with investigation as and when required. Petitioners are permanent residents of Panchwati Building, 2nd Floor, Shiv Puri, Tehsil and District Shimla, H.P. and there is no apprehension of their absconding or fleeing from the course of justice. It is not a case where custodial interrogation of petitioners is warranted. Even the respondent has not made any such prayer.

9. The only reason for opposing the bail is that the petitioners are not disclosing the address of husband of complainant. In my considered view, the bail cannot be denied on such a frivolous ground. It cannot be believed that the complainant is not having the address or whereabouts of her husband. It is mentioned in the complaint itself that complainant had also visited France. In any case, in the present era, the whereabouts of a person, especially in a foreign country can be easily ascertained.

10. In the given facts and circumstances of the case, petitions are allowed and in the event of arrest of the petitioners in case FIR No. 9 of 2023 dated 13.4.2023,

registered under Sections 498A, 504 and 34 IPC at Mahila Police Station, BCS, District Shimla, H.P., they shall be released on bail, on their furnishing personal bond in the sum of Rs. 25,000/- each with one surety in the like amount each to the satisfaction of Investigating Officer/Arresting Officer. This order shall be subject to following conditions: -

- i) That the petitioners shall make themselves available to the police or any other Investigating Agency or Court in the present case as and when required;
- ii) That the petitioners shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;
- iii) That breach of any of the bail condition by the petitioners shall entail cancellation of the bail.
- iv) That the petitioners shall not leave India without prior permission of the Court.

11. Any observation made herein above shall not be taken as an expression of opinion on the merits of the case and the trial Court shall decide the matter uninfluenced by any observation made herein above.