

(2014) 12 DEL CK 0393

In the Delhi High Court

Case No : Bail Application No. 2491 of 2014

Sanjeev Arora

APPELLANT

Vs

The State

RESPONDENT

Date of Decision : 08-12-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 164, 439, 482
Penal Code, 1860 (IPC) — Section 323, 354-B, 365, 376, 377

Citation : (2015) 1 JCC 1

Hon'ble Judges : Pratibha Rani, J

Bench : Single Bench

Advocate : Sunil K. Mittal, Vipin K. Mittal, Kshitij Mittal, Pradeep Kumar Arya and Komal Arora, Advocates for the Appellant; Rajdipa Behura, A.P.P. and Yogesh Kumar, S.I, Advocates for the Respondent

Judgement

Pratibha Rani, J.—By filing the present bail application under Section 439 Cr.P.C. read with Section 482 Cr.P.C., the Petitioner is seeking bail in case F.I.R. No. 280/2014, under Sections 376/506/509/323/498A/377/354-B IPC, PS Maya Puri, Delhi which was got registered by his wife "S". Status report has been filed by the State.

2. I have heard learned counsel for the Petitioner and learned APP for the State as well as learned counsel for the Complainant.

3. Learned counsel for the Petitioner has drawn the attention of this Court to the certificate of marriage (copy of which is placed on record at page No. 28) in respect of the marriage solemnised on 09.03.2014 and registered on 10.03.2014. Learned counsel has also referred to the statement of Complainant recorded under Section 164 Cr.P.C. (copy of which is placed on record at page No. 34) on 11.03.2014 wherein also the Complainant stated about the marriage being solemnised in Arya Samaj Mandir on 09.03.2014 and registration of the said marriage on 10.03.2014. She has also stated about the hot words exchange between her husband i.e. the Petitioner and her mother on phone. She has also

stated that on 10.03.2014 itself they had visited the police station and there she mentioned about the marriage being done by her of her own sweet will and residing with the Petitioner voluntarily. Learned counsel for the Petitioner has also submitted that F.I.R. No. 120/2014 under Section 365 IPC registered at PS Maya Puri at the instance of mother of "S" stands cancelled in view of the statement of "S", wife of the Petitioner.

4. Learned counsel for the Petitioner has also drawn the attention of this Court to the F.I.R. No. 1389 dated 29.04.2014 filed by the Petitioner against his mother-in-law at Santa Cruz, Bombay. He has further drawn the attention of this Court to the memo of settlement dated 21.06.2014 entered into by the parties at Amritsar (Copy of which is placed on record as Annexure-E) The Complainant "S" has lastly resided with the Petitioner in Amritsar and vide memo of settlement dated-21.06.2014 (copy of which is placed on record at page No. 47), she returned alongwith her mother from Amritsar. Thereafter she had never resided with the Petitioner. It is further submitted by learned counsel for the Petitioner that at the time of signing this memo of settlement, two blank papers were also got signed from the Petitioner which were assured to be not used, as well assurance was taken from him that he will never call "S" at her residence or college or to her friends. However, subsequently this F.I.R. No. 280/2014 under Sections 376/506/509/323/498-A/377/354-B IPC has been got registered at PS Maya Puri against the Petitioner. Learned counsel for the Petitioner submitted that till "S" remained with the Petitioner as his wife, her mother continued chasing them and after bringing her back from Amritsar, this false case has been got registered against him.

5. On behalf of State, it has been submitted that serious allegations have been against the present Petitioner who had even inserted foreign object in private part of his wife and in view of the nature and gravity of the offence as well as the nature of cruelty committed by the Petitioner on his wife "S", prayer for grant of anticipatory bail may be rejected.

6. During the course of hearing, learned APP for the State was requested to show from the MLC about the medical opinion in respect of the insertion of foreign object in the private part of "S".

7. Learned APP for the Stated submitted that since the Complainant "S" refused for medical examination, no such opinion is available.

8. From the facts, it can be inferred that the F.I.R. has been lodged by "S" on 02.07.2014 after she was brought back from Amritsar by her mother. The matter is still under investigation. The Petitioner is in J/C since 01.10.2014.

9. In the facts and circumstances of the case, I am of the view that it is a fit case to grant bail to the Petitioner, who is husband of Complainant "S". Accordingly, it is directed that the Petitioner be released on bail on his furnishing personal bond in the sum of Rs. 1 lac with one surety in the like amount to the satisfaction of learned Trial Court, subject to the following conditions:

- (i) The Petitioner shall not leave the country without permission of the Trial Court.
- (ii) The Petitioner shall surrender his passport before the learned Trial Court and in case he is not holder of any passport, he shall file affidavit to this effect before learned Trial Court.
- (iii) The Petitioner shall not contact the Complainant on phone or through any other method.
- (iv) Since the Petitioner and Complainant are husband and wife, even if the Petitioner is called by the Complainant, he shall not contact or visit her without seeking prior permission from learned Trial Court.

10. Application stands disposed of. Any observations made hereinabove for the purpose of dealing with the contentions raised during hearing of the bail application shall not be deemed to be an expression on merits of the case.