

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

+ **Bail Appl. No.2011/2007**

% **Date of Decision: 04.09.2008**

Sh.Rohtash Sharma & Others Petitioners

Through Mr.Narinder Kumar Saraswat, Advocate

Versus

State Respondent

Through Mr.Amit Sharma, APP for the State.
Mr.R.K.Sharma, Advocate for the
respondent No.2.
SI Narsingh, P.S.Dabri.

CORAM:

HON'BLE MR. JUSTICE ANIL KUMAR

1. Whether reporters of Local papers may be allowed to see the judgment?
2. To be referred to the reporter or not?
3. Whether the judgment should be reported in the Digest?

ANIL KUMAR, J.

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1. The petitioners are father-in-law, mother-in-law, brother-in-law (Jeth - elder brother of the husband) and the husband, Sh. Hari Om, who seek anticipatory bail under Section 438 of Criminal Procedure Code in an FIR registered pursuant to the complaint filed by the daughter-in-law under section 498 A read with other provisions of law.

2. The father-in-law is an aged person and a senior employee of the Railways, serving as Shuntman; mother-in-law is a house wife allegedly

not keeping good health and is alleged to remain hospitalized and is under continuous treatment; Jeth (elder brother of the husband) is serving in Sugar Mills in Kinoni District and the husband is a soldier.

3. The petitioners have contended that the marriage between the petitioner no. 4 and the complainant was love/choice marriage although arranged by family men socially. There is no issue from the marriage between the petitioner No.4 and the respondent No. 2. Respondent No.2 is stated to have diploma in cutting, tailoring and embroidery. It is alleged that after the marriage, the petitioner No.4/husband could not keep the respondent No.2 with him as he was not posted at family station and consequently he wanted to keep respondent no. 2 with his parents which was not acceptable to the respondent no.2. The respondent no.2 used to instigate the petitioner no. 4/ husband to live separately with her. The petitioner No.4/husband had, therefore, got permission from the Army Officer and had taken the complainant/respondent no. 2 to Jodhpur. However, she is alleged to have misbehaved and abused him and in a fit of anger had taken some substance which was injurious to her health. An allegation of respondent no. 2/ wife thrashing the mother-in-law on 07.03.2005 has also been made.

4. On disputes occurring between the parties as they could not live together, a list of articles given in the marriage is alleged to have been prepared which was duly signed by the parties. However, it is alleged

that on 23.02.2007 when petitioner no. 4 was on duty, respondent no.2 alongwith her mother and brother removed Rs.25,000/- cash, a golden chain of two tolas, golden kara, pajeb and valuable sarees and left the house. Since the respondent no.2/complainant had left the matrimonial home, the petitioner no.4, therefore, filed a petition for divorce which is pending in the Court at Meerut.

5. It is contended that the petitioners are respectful persons and since the marriage between the petitioner no. 4 and respondent no. 2 has not been successful, the husband/petitioner no. 4 and other petitioners are being implicated by making false allegation regarding the demand of dowry. It is also contended that there cannot be any apprehension of petitioners running away or trying to influence any of the witnesses. The petitioners have also contended that they will fully cooperate with the investigating agency and join the investigation as and when directed. The learned counsel for the petitioner has also relied on 2003(1) JCC 31, Roshan Lal Nimesh and Another v. State of N.C.T. of Delhi and 1997 JCC 552, Mahesh Naithani v. The State. The elder brother of petitioner no. 4/husband and father-in-law and mother-in-law have been roped in to cause harassment to them and even petitioner no. 4 is being pressurized by making false allegations and averments against him and in case the petitioner no. 4 is arrested, he may lose his employment with the Indian Army.

5. The averments made on behalf of respondents are that not only the father-in-law, mother-in-law and the husband's elder brother but elder brother's wife and the sisters who are living at Old Faridabad had also been roped in and it has been alleged that they had also demanded the dowry articles. The other allegations made are that the respondent no. 2/ complainant was not allowed to touch the utensils and that she was ill-treated. The learned counsel for the respondent no.2/complainant has contended that during the fight between petitioner no. 4 and respondent no. 2, the complainant had taken some substance which was poisonous, however, no report was made to the police nor anything has been produced to show prima facie that any such incidence had taken place. The respondent no. 2/complainant, however, admitted that when the tablets were taken by her, the petitioner no. 4/ husband has got her admitted to a private hospital. From the allegations made in the complaint it also appears that the expenses for the treatment were borne by the husband.

6. It is also admitted that articles have been given by the petitioners for which the receipt dated 26.08.2007 was executed. The contention of the petitioners are that all the articles were either taken away by the respondent No.2/complainant or were returned whereas the allegation of the complainant is that the jewellery articles have not been returned.

7. Considering the facts and circumstances and the fact that petitioner no.1/father-in-law is employed in Railways, mother-in-law is

not keeping well and the elder brother is employed at a different place and the husband is a Sepoy in Army, and the allegations made in the complaint and the counter allegations made against the complainant/respondent No.2 and the dowry articles, which according to respondent no. 2 are not all the articles, have been returned, it is a fit case to grant anticipatory bail to the petitioner. Consequently the petition is allowed and in case of arrest, petitioners be released on bail on their executing personal bonds for a sum of Rs. 10,000/- each with one surety each of like amount to the satisfaction of the Investigation Officer/Arresting Officer. The petitioners shall appear before the Investigating Officer as and when directed by him and shall not try to influence any of the witnesses in any manner.

With these directions, the petition is disposed of.

Dasti.

September 04, 2008
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ANIL KUMAR, J.