

**Amit Shukla Vs. State**

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**SooperKanoon Citation :** [sooperkanoon.com/910462](http://sooperkanoon.com/910462)

**Court :** Delhi

**Decided On :** Feb-14-2011

**Judge :** Hima Kohli, J.

**Acts :** Code Of Criminal Procedure (Cr.P.C) - Sections 438 read with 482, 313;  
Indian Penal Code (IPC) - Sections 498A, 406, 34

**Appeal No. :** BAIL APPLN. 86/2011

**Appellant :** Amit Shukla

**Respondent :** State

**Advocate for Def. :** Mr. M.N. Dudeja, Adv.

**Advocate for Pet/Ap. :** Ms. Seema Gulati; Mr. Sugam Puri; Ms. Kiran Sinha,  
Advs.

**Judgement :**

1. Whether Reporters of Local papers may No be allowed to see the Judgment?
2. To be referred to the Reporter or not? No
3. Whether the judgment should be No reported in the Digest?

1. The present petition is filed by the petitioner under Section 438 read with Section 482 of the Cr.PC for grant of anticipatory bail in FIR No.51/2008 lodged under Sections 498A/406/34 IPC, registered with Police Station: Crime against

Women Cell, Nanakpura, New Delhi.

2. Counsel for the petitioner states that after lodging of the aforesaid FIR by the complainant, Ms. Richa Shukla, (wife of the petitioner) against her husband, the petitioner and the members of his family on 05.08.2008, a petition for grant of anticipatory bail preferred by the petitioner in this Court, registered as BAIL APPLN. 2276/2008, was allowed vide order dated 28.10.2009 on the conditions as laid down in the said order. It is submitted by the counsel for the petitioner that in the present case, charge-sheet was filed on 12.05.2010, whereunder it was opined that as per the documents on the record, offence under Section 313 IPC was not attracted. However, the offences under Sections 498A/406/34 IPC were found to be attracted. Vide order dated 16.07.2010, the learned Metropolitan Magistrate arrived at a conclusion that the commission of offence under Section 313 Cr.PC was also disclosed from the charge-sheet and cognizance of the aforesaid offence was taken and summons were issued to the accused persons, including the petitioner herein. Aggrieved by the aforesaid order, the petitioner preferred a revision petition, which was disposed of vide order dated 21.12.2010 on the point of maintainability. It is stated that now the matter is to be committed to the Sessions Court.

3. The petitioner filed another application before the learned ASJ, seeking anticipatory bail on account of the learned Metropolitan Magistrate taking cognizance of the offence under Section 313 IPC, however, the same was dismissed as withdrawn with liberty to approach the appropriate forum. Hence, the present bail application has been filed by the petitioner. Learned counsel for the petitioner states that after passing of the order dated 28.10.2009 granting anticipatory bail to him, the petitioner has not violated any of the terms and conditions of bail as imposed in the aforesaid order. She further states that her client is also willing to make a further payment of `2.5 lacs to the complainant without prejudice to his rights and contentions and subject to grant of two installments for making the payment. She also places reliance on a judgment in the case of *Puran Mal Man & Anr. vs. The State (NCT of Delhi)* reported as 2008 (1) JCC 201 to submit that bail should be granted where subsequently, cognizance has been taken of offence under Section 313 IPC.

4. Though the present petition for anticipatory bail is vehemently opposed by the counsel for the complainant by stating that a perusal of the charge-sheet itself indicates that the petitioner is responsible for the termination of the pregnancy of the complainant on three occasions, the aforesaid aspect of the matter cannot be the subject matter of detailed consideration in the present petition as there is already an order dated 16.07.2010 passed by the learned Metropolitan Magistrate, taking cognizance of the aforesaid offence. As far as the submissions of the learned APP for the State are concerned, it is not denied by him that all the aforesaid facts were placed before the Court seized of the earlier bail application filed by the petitioner and only after considering the said facts did the order dated 28.10.2009 come to be passed, granting anticipatory bail to the petitioner.

5. Having regard to the aforesaid facts and circumstances, the present petition is allowed. It is directed that in the event of arrest, the petitioner shall be released on bail subject to his furnishing a personal bond in the sum of `50,000/-, with one surety of the like amount to the satisfaction of the Investigating Officer/SHO. It is made clear that the petitioner shall not leave the country without the prior permission of the trial court nor shall he interfere with or try to influence any witness. It is further clarified that the payment of `2.5 lacs that the petitioner has offered to pay to the complainant is without prejudice to his rights and contention, and the same shall be paid by him to the complainant in two equal installments of `1.25 lacs each within a period of six weeks.

6. The petition is disposed of.

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