

In the High Court of Punjab and Haryana at Chandigarh

CRM M-24672 of 2015
Date of Decision: July 29, 2015

Puneet Vir Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH

Present: Mr.Ishan Gupta, Advocate,
for the petitioner.

Paramjeet Singh, J. (Oral)

Instant petition has been filed under Section 482 of the Code of Criminal Procedure for setting aside impugned order dated 20.07.2015 (Annexure P/2) and modification of the condition imposed upon the petitioner by learned Additional Sessions Judge, Sangrur while granting anticipatory bail to the petitioner in case FIR No. 157, dated 13.06.2015, under Sections 498-A, 406, 377 of the Indian Penal Code, registered at Police Station City Sangrur.

Notice of motion.

On the asking of the Court, Mr. S.S. Chandumajra, Deputy

Advocate General, Punjab, accepts notice on behalf of the State.

Learned counsel for the petitioner contends that the

condition imposed by learned Additional Sessions Judge, Sangrur is contrary to the provisions of Section 438 of the Code of Criminal Procedure. Such condition cannot be imposed while granting anticipatory bail. Learned counsel further contends that if the case of the petitioner is fit for grant of anticipatory bail, then such condition imposed upon the petitioner is harsh and contrary to the settled proposition of law. Learned counsel relies upon a judgment of Hon'ble Supreme Court in ***Munish Bhasin and others vs. (Govt. of NCT of Delhi) and another, 2009(2) R.C.R. (Criminal) 247.***

I have considered the contentions raised by learned counsel for the petitioner and perused the impugned order.

Perusal of impugned order itself indicates that anticipatory bail has not been granted to the petitioner on merit. There is no dispute regarding the proposition of law laid down in the judgment cited by learned counsel. In the said case, the Court after considering the merit of the case, granted interim relief under Section 438 of the Code of Criminal. But in the present case, interim relief has not been granted on merit. The relevant part of the impugned order is as under:-

“4. Without commenting much on the merits of the case, it is observed that at this stage, the applicant-accused shall join the investigation. And if the applicant accused produces before the Investigating Officer:

a) a draft of Rs. Twenty Lacs, in the name of the complainant as value of the istridhan of the complainant, he shall be released on bail on execution of the bond to the satisfaction of the Arresting Officer,

b) The said draft shall be offered to the complainant as value of her Istridhan and shall be delivered to her against a receipt And if she refused to accept it within a week, it shall be returned to the applicant-accused. The statement of the complainant, in this regard must be recorded by the Investigating Officer,

c) The above said locker can be opened in the presence of Investigating Officer, and operated in the presence of both the sides, along with their one representative present in the bank. Then the item no. 1,2 and 11 of the Inventory report, after getting its weight from some gold smith, can be handed over to the complainant against a simple receipt. The remaining articles shall remain in the locker but the key shall be handed over to the applicant-accused, who thereafter, alone shall be authorized to operate the same,

d) The dispute qua demand of 33 tola golden jewellery minus the weight of the articles no. 1,2 and 11 of the Inventory report shall remain the subject matter of the evidence, qua the liability of the accused and the right of the complainant,

e) Similarly, the right qua the car shall remain the subject matter of the evidence, qua the liability of the accused and the right of the complainant.

f) The Investigating Officer shall not take into his

custody the above said car. The applicant-accused shall be bound to hand over the signed or self attested copy of the RC to the Investigating Officer, which may be read as part of the evidence during trial.”

Admittedly, the conditions as mentioned in Section 438 of the Code can be imposed by the Court while granting anticipatory bail as has been held in ***Munish Bhasin's case*** (supra). Conditions imposed in the impugned order are against the conditions mentioned in Section 438 of the Code. Consequently, the conditions imposed in the impugned order are set aside.

Since the order imposing conditions has been passed in the interest of justice without considering the merit of the case, the impugned order is set aside as a whole. Learned Additional Sessions Judge shall pass fresh order on merit in accordance with law.

Disposed of accordingly.

July 29, 2015
vk

[Paramjeet Singh]
Judge