

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM No. M-4698 of 2015 (O&M)

Date of Decision: 04.08.2015

Punan Lal @ Sabhi

--Petitioner

Versus

State of Punjab

--Respondent

CORAM:-HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. Prashant Vashisth, Advocate for the petitioner.

Mr. Nikhil K. Chopra, D.A.G., Punjab.

Mr. K.V.S. Ahluwalia, Advocate for the complainant.

TEJINDER SINGH DHINDSA.J

This order shall dispose of the instant petition filed under Section 438 Cr.P.C praying for grant of anticipatory bail to the petitioner in case F.I.R. No. 172 dated 28.11.2013 under Sections 406, 498-A, 376 I.P.C registered at Police Station, Kartarpur, District Jalandhar City.

While issuing notice of motion, the following order was passed by this Court on 12.2.2015:-

“Counsel for the petitioner inter alia contends that prior to lodging of FIR on 28.11.2013, the complainant submitted two applications in the year 2013 in regard to harassment for dowry by husband and in laws family members and in those applications dated 15.04.2013 (Annexure P2) and 27.07.2013, there is no allegation that the complainant was subject to rape by the petitioner, younger brother of her husband. In the FIR, no date, month and year of the alleged rape committed by the petitioner has been mentioned. The complainant has come up with the allegations of rape in order to ensure that the petitioner is not given benefit of bail.

Notice of motion for 01.04.2015.

In the meantime, the petitioner is directed to join investigation within ten days and on his appearance before the Investigating/Arresting officer, he will be released on bail on his furnishing bail bonds to the satisfaction of the concerned officer, subject to the following conditions:-

i) he shall make himself available for interrogation by a police officer as and when required;

(ii) he 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/her from disclosing such facts to the Court or to any police officer; and

(iii) he shall not leave India without the previous permission of the Court.”

On 1.4.2015, learned State counsel was granted time to verify the contents of two complaints dated 15.4.2013 and 27.7.2013 at Annexure P-2 and which had been submitted by the complainant prior to the registration of the F.I.R and in which there was no allegation whatsoever against her brother-in-law i.e. the present petitioner as regards maintaining forcible physical relations and having committed rape.

Learned State counsel upon instructions from H.C. Kewal Chand would concede that the afore-noticed two complaints dated 15.4.2013 and 27.7.2013 had been made by the complainant and concedes that in these two complaints there were no allegations pertaining to rape and directed against the present petitioner.

That apart, even a perusal of the F.I.R dated 28.11.2013 does not contain any allegation against the present petitioner as regards offence under sections 406, 498-A I.P.C.

The petitioner is stated to have already joined investigation.

Under such circumstances, custodial interrogation of the

petitioner would not be warranted. Accordingly, the present petition is

allowed. Order dated 12.2.2015, passed by this Court, is made absolute.

It is, however, clarified that the observations contained in this order are confined only as regards consideration and adjudication of the prayer of the petitioner for grant of pre-arrest bail and would have no bearing on the merits of the case.

Disposed of.

(TEJINDER SINGH DHINDSA)
JUDGE

04.08.2015
lucky