

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH
Sr. No.: 201

Criminal Miscellaneous No.22353 of 2016 (O & M)
Date of Decision: *July 15, 2016*

Sunayana

..... PETITIONER

VERSUS

State of Punjab & another

..... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

. . .

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

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PRESENT: Mr. Sanjiv Gupta, Advocate, for the petitioner.

Mr. R.P.S. Sidhu, Assistant Advocate General, Punjab, for respondent No.1 - State.

Mr. D.S. Bishnoi, Advocate for respondent No.2 – complainant.

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Jaspal Singh, J

1 Through this petition, preferred under Section 482 Cr.P.C., Ms. Sunayana has sought pre-arrest bail in case FIR No.18 dated March 01, 2016 under Sections 328, 380, 384, 497, 120-B IPC and Section 66-E of Information Technology Act, 2000, registered at Police Station, City – II, Abohar.

2. Learned counsel for the petitioner has contended that instant FIR has been got registered by respondent No.2 – Gaurav Kumar alleging that on January 13, 2016 at about 4:30 PM, his wife had left the matrimonial home on the incitement of Sachin Sharma. Though, a complaint was lodged in this regard but no action has been taken by the police so far. Sachin Sharma has already extracted a sum of Rs. 5 lac from him on the pretext for not uploading the objectionable photographs of his wife and WhatsApp chatting with him. Now, again he is putting forth a demand for a sum of Rs.35 lacs from him. Even during enquiry, nothing came to light that Sunayana has developed illicit relations with her co-accused Sachin Sharma. She used to commit wrong acts with Sachin Sharma by administering some intoxicant substance in the food items provided to complainant as well as other family members just to quench her sexual lust.

3. Learned counsel for the petitioner has further contended that there is no specific allegation against the petitioner in the FIR. Moreover, she undertakes to join investigation and abide by all the terms and conditions imposed upon her, in case, she is granted the concession of pre-arrest bail.

4. On the other hand, learned counsel for the State assisted by Mr. D.S. Bishnoi, Advocate has submitted that petitioner left the matrimonial home without any rhyme or reason and joined hands with her co-accused Sachin Sharma. While leaving the matrimonial home, she took away various valuable articles. Even, she used to administer intoxicated substances not only to complainant but also to the children to quench her sexual lust in the company of Sachin Sharma. Moreover, the recovery of valuable articles removed by petitioner while leaving matrimonial home is

still to be effected which is only possible through her custodial interrogation.

Petition being devoid of merits is liable to be dismissed.

5. This court has given a deep thought to the rival submissions made by learned counsel for the parties and has gone through the record available on file.

6. Undoubtedly, marriage of the petitioner was solemnised with respondent No.2 about 8 years back and out of their wedlock, two children were born. Since the date of her marriage with complainant till lodging of instant case, there was no allegation of any sort. Sachin Sharma against whom certain allegations have been levelled has already been arrested by police and is cooling his heels behind bars.

7. A perusal of the FIR transpires that there is no specific allegation against the petitioner. Moreover, it is also not expected from a prudent person that he will wait for a sufficient long time to register a case and to unfold that he was being administered some poisonous substance or intoxicated material by petitioner just to be in the company of her co-accused Sachin Sharma. There are allegations and counter allegations in between petitioner and respondent No.2. There is also nothing in the FIR to suggest, as to which valuable articles have been taken away/removed by the petitioner while leaving the matrimonial home.

8. Taking into consideration the aforesaid aspects but without expressing any opinion on the merits of the main case, this Court deems it a fit case to exercise discretionary power envisaged under Section 438 Cr.P.C. Accordingly, the petition is allowed and it is ordered that in the event of arrest, petitioner shall be released on interim bail subject to the compliance of the conditions envisaged under Section 438(2) Cr.P.C. She is further

directed to join investigation within a period of seven days from the date of receipt of certified copy of this order.

9. It is made clear that any observation made in this order shall have no bearing on the merits of the main case.

July 15, 2016
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(Jaspal Singh)
Judge