

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc. No. M-26947 of 2016
Date of decision : August 30, 2017

Gurmit Kaur

....Petitioner

versus

State of Punjab

....Respondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr.Vijay Lath, Advocate, for the petitioner
Mr. H.S.Grewal, Addl. AG, Punjab, for the respondent
Mr. Sandeep Gupta, Advocate, for the complainant

Fateh Deep Singh, J. (Oral)

This order shall dispose of amended-cum-supplementary anticipatory bail application filed under section 438 of the Code of Criminal Procedure by petitioner Gurmit Kaur in the present case got registered by way of affidavit.

The precise allegations are that the marriage between petitioner Gurmit Kaur and complainant Makhan Singh was solemnized on 21.12.1991 and out of the wedlock two girls were born to the couple and on account of matrimonial dispute a complaint was made by the husband against the wife on the allegations that the wife had initially procured an Indian passport in her name and subsequently fraudulently by

misrepresentation and suppression of facts by misrepresenting her different parentage had procured another passport leading to the registration of the case.

The contention of the counsel for the petitioner are that the petitioner is a lady with a family and it was the husband who was instrumental in getting the passports as she has no role in the same and that it is on account of matrimonial dispute between the couple a false case has been registered by way of counter blast to the initiation of criminal proceedings by the wife pertaining to this matrimonial dispute.

The bail is stoutly opposed by learned State counsel assisted by Mr. Sandeep Gupta, counsel for the complainant on the grounds that custodial interrogation of the petitioner is very much essential and that the recovery of the two passports is very much essential for proper investigations and in view of the heinousness of the offence she is not entitled to any relief.

Going through the stands and arguments addressed by the two sides, admittedly the couple is at loggerheads over their matrimonial dispute. The question under what circumstances as has been alleged, two passports have been issued are matters of investigations. The relevant files are matter of public record and thus does not necessitates custodial interrogation. Being lady with two female children, sending her to custody would be traversity of justice. In the light of such peculiar circumstances of the matrimonial dispute along with adverse repercussions, it might befall

the children and rest of the family, her joining the investigations would suffice the purpose.

In view of the aforesaid, the present petition is allowed. In the event of arrest, the petitioner shall be released on bail to the satisfaction of arresting/investigating officer till submission of report under section 173 Cr.P.C. (challan). The petitioner shall, however, join the investigation as and when called for and shall also abide by the conditions specified under section 438 (2) Cr.P.C. Thereafter, petitioner will be permitted to furnish regular bail bonds to the satisfaction of the trial Court.

The observations made herein above shall not be binding on the trial court at the time of trial as these are purely for the disposal of the present bail application.

August 30, 2017
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(Fateh Deep Singh)
Judge

Whether speaking/reasoned ?

Yes/No

Whether Reportable ?

Yes/No