

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

204

Criminal Misc. No.M-19475-2016 (O&M)
Date of Decision: May 24, 2018.

Monika Aggarwal

..... PETITIONER

Versus

State of Punjab and anr.

..... RESPONDENTS

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. H.S. Bedi, Advocate for the petitioner.

Mr. D.S. Sukarchakia, DAG, Punjab.

Mr. Anupam Bhardwaj, Advocate for respondent No. 2.

LISA GILL, J.

The petitioner seeks cancellation of anticipatory bail afforded to respondent No. 2 by the learned Additional Sessions Judge, Amritsar dated 10.05.2016 (Annexure P-4), in case FIR No. 17 dated 30.03.2016 under Sections 406, 498A of IPC, registered at Police Station Women Cell Amritsar.

FIR No. 17 dated 30.03.2016 was registered against respondent No. 2 at the instance of the petitioner. An effort was made for an amicable settlement between the parties but the same did not fructify.

Learned counsel for the petitioner vehemently argues that gold articles belonging to the petitioner were yet to be recovered, therefore, learned Additional Sessions Judge, Amritsar, has wrongly confirmed anticipatory bail afforded to respondent No. 2 vide order dated 06.05.2016. It is urged that it is clear from statement made by the Investigating Officer on 08.04.2016 (attached as Annexure P-5) that certain gold articles are yet to be recovered from the petitioner's possession. Learned counsel submits that the said articles have not

been recovered till today. Respondent No. 2 is not even paying the maintenance assessed to the petitioner under Section 125 Cr. P.C. It is thus, prayed that this petition be allowed.

Learned counsel for respondent No. 2 while denying the allegations against respondent No. 2 opposes this petition. He submits that anticipatory bail cannot be denied to an accused merely on the ground that certain recoveries are to be effected. It is submitted that final report/challan in this case was presented on 19.08.2016 and respondent No. 2 has been appearing before the learned trial Court regularly in this matter. The petitioner in fact was not appearing before the learned trial court for recording her statement and it is pursuant to her undertaking recorded before this Court on 06.02.2018 that she appeared before the learned trial court. Subsequent to her examination-in-chief, an application under Section 216 Cr. P.C has been moved by the prosecution for amendment of the charge at this belated stage which shows that the complainant merely seeks to prolong the proceedings. Moreover, respondent No. 2 has been paying the maintenance assessed @ Rs.5,000/- per month in the proceedings under Section 125 Cr. P.C. The interim maintenance was enhanced and respondent No. 2 challenged the said enhancement by filing the petition. The said petition has however, not come up for hearing. The respondent No.2 undertakes to clear all arrears of maintenance, if any, @Rs. 5000/- per month within two weeks from today without prejudice to his rights. Rest of the amount, it is submitted, would however, be subject to the pending litigation in this regard. He further undertakes to appear on each and every date before the learned trial Court.

Learned counsel for the State, on instructions from ASI Tejinder Pal Singh, verifies that the respondent No.2 has been appearing before the learned trial court and is not involved in any other criminal case.

Heard learned counsel for the parties.

It is not in dispute that final report/challan in this case has been presented and respondent No. 2 is regularly appearing before the learned trial Court. It has been held in Prit Pal Singh vs. State of Punjab and another, 2014 (5) RCR (Criminal) 771 that non-recovery of certain articles by itself cannot be a ground for not affording the concession of anticipatory bail to the petitioner. The petitioner has undertaken to clear arrears of maintenance @Rs. 5000 p.m. within two weeks from today besides continuing to appear before the learned trial Court on each and every date.

Keeping in view the facts as above, I do not find any ground for cancellation of anticipatory bail afforded to respondent No. 2, at this stage.

Petition, is accordingly, disposed of.

May 24, 2018
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Whether speaking/reasoned
Whether reportable

(LISA GILL)
JUDGE

Yes/No
Yes/No