

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CRM-M-15687-2020 (O&M)

Date of Decision: 28.07.2020

Bhagwan Dass

... Petitioner

Versus

State of Punjab

... Respondent

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

Present:- Mr. Amit Chaudhary, Advocate for the petitioner.

Mr. A.S. Sandhu, Addl. A.G., Punjab.

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TEJINDER SINGH DHINDSA, J. (ORAL).

Matter has been taken up through Video Conferencing via Webex facility in the light of the Pandemic Covid-19 situation and as per instructions.

This order shall dispose of the instant petition filed under Section 438 Cr.P.C. seeking concession of anticipatory bail to the petitioner in case FIR No.49, dated 15.06.2019, under Sections 406/498-A IPC, registered at Police Station Women, Patiala, District Patiala.

Counsel for the parties have been heard.

On 18.06.2020 when the matter came up for preliminary hearing, the following order was passed by this Court:

“All the cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the Covid-19 pandemic.

By this petition, the petitioner seeks the concession of anticipatory bail, upon FIR No.49, dated 15.06.2019, having

been registered at Police Station Women, Patiala, District Patiala, against him, alleging therein the commission of offences punishable under Sections 406/498-A IPC.

Learned counsel for the petitioner submits that initially in fact the petitioner had filed a complaint against his wife (complainant in the present FIR) on 7.1.2019, alleging therein the commission of offences punishable under Sections 323,324,326,452,506,34 IPC and 3(2)(v) of SC ST Act, in which a cancellation report was filed, after which the present petitioner has filed a protest petition before the competent court.

He submits that in fact the complainant in the present FIR, i.e. the petitioner's wife, is a Head Constable in the Punjab Police and that is why the cancellation report was filed, as a backlash to which the FIR in question has been lodged.

Without making any comment on the merits of the case, notice of motion is issued to the respondent-State, with Mr. Bhupender Beniwal, learned AAG, Punjab, accepting notice at the asking of the court, with him having received an advance copy thereof.

Though learned State counsel opposes the grant of anticipatory bail to the petitioner, in the aforesaid circumstances, it is considered appropriate to admit the petitioner to anticipatory bail. Thus, if upon joining investigation he is sought to be arrested, he would be admitted to interim bail, on his furnishing adequate bail and surety bonds to the satisfaction of the arresting officer/Illaqa

Magistrate. He shall, of course, abide by all the conditions stipulated in Section 438(2) of the Cr.P.C.

If the arresting officer does not join the petitioner in investigation, he would appear before the learned Illaqa/Duty Magistrate immediately, who would then summon the arresting officer and direct him to join him in investigation.

Adjourned to 20.7.2020.”

Thereafter, on 20.07.2020, the following directions were issued:

“All cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the COVID-19 pandemic.

Pursuant to the order dated 18.06.2020, Mr. Sewak, Addl. A.G. Punjab, submits that though the petitioner has joined investigation, he is not cooperating, inasmuch as he has not disclosed the whereabouts of the car purchased by the complainant as was given to the petitioner.

In response thereto, Mr. Chaudhary, learned counsel for the petitioner, submits that if the registration of the car is in the name of the complainant or any other person other than the petitioner, the petitioner would return it to the complainant or such person as the case may be.

Adjourned to 28.07.2020.

Interim order to continue till the next date of hearing only.

The petitioner would produce the registration certificate of the car.

Learned State counsel would also direct the investigating officer to determine from the Registration office as to in whose name the car is registered.”

Learned State counsel informs the Court that the petitioner has surrendered before the Investigating Agency with an alto car bearing a

temporary registration number. It is further contended that there is one more car make 'Optra' under the ownership of the complainant and which has not been surrendered. Learned State counsel, however, submits that the petitioner has since joined investigation.

In view of the above, this Court is of the considered view that custodial interrogation of the petitioner would not be warranted.

Petition is allowed.

Order dated 18.06.2020 passed by this Court is made absolute.

Before parting with the order, this Court is constrained to take note that the complainant i.e. wife of the petitioner happens to be serving as a Head Constable under the Punjab Police.

It would be expected from the employer/concerned police authorities to even look into the aspect as to how a 2012 'alto car' under the ownership of the complainant has been plied on the basis of a temporary number and without proper registration and assigning of a permanent registration number. It ought also to be looked into as to whether the complainant had taken prior permission from the employer as regards purchase of two motor vehicles as also her source of funds keeping in view that she is holding the post of Head Constable.

Disposed of.

28.07.2020

harjeet

**(TEJINDER SINGH DHINDSA)
JUDGE**

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|-----|----------------------------|--------|
| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |