

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(201)

CRM No. M-23811-2020

Date of Decision : -28.09.2020

NISHA SINGH

....Petitioner

Versus

STATE OF HARYANA

.....Respondent

(through video conferencing)

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Munish Mittal, Advocate for the petitioner.

Ms. Safia Gupta, Assistant Advocate General, Haryana.

Harsimran Singh Sethi, J. (Oral)

Petitioner is seeking anticipatory bail in FIR No. 1034 Dated 08.06.2020, under Sections 193, 199 and 420 IPC registered at PS Shivaji Nagar Gurugram, District Gurugram.

Learned counsel for the petitioner contends that the petitioner has joined investigation in terms of order passed by this Court on 21.08.2020. Order dated 21.08.2020 is as under:-

“Present petition has been filed under Section 438 of the Cr.P.C. for the grant of anticipatory bail to the petitioner in respect of FIR No. 1034 Dated 08.06.2020, under Sections 193, 199 and 420 IPC registered at PS Shivaji Nagar Gurugram, District Gurugram.

Learned counsel for the petitioner states that the

allegations in the present FIR are against three persons i.e. petitioner, co-accused Harjeet Singh Sandhu, husband of the petitioner and Jaspal Singh Sandhu, father-in-law of the petitioner to the effect that the wrong date was mentioned while filing an application for dissolution of marriage under Section 13-B of the Hindu Marriage Act, 1995 so as to mislead the Court. Learned counsel for the petitioner further states that the FIR has been registered on the asking of the Court, which was mislead by the petitioner alongwith the co-accused. Learned counsel submits that co-accused, namely, Harjeet Singh Sandhu as well as father-in-law of the petitioner, namely, Jaspal Singh Sandhu have already been granted the benefit of anticipatory bail by this Court while deciding CRM No. M-19787 of 2020 and, therefore, keeping in view the parity and especially the fact that the petitioner immediately filed an application for setting-aside of the decree of divorce, which was obtained by the fraud by the co-accused, the petitioner is also entitled for the benefit of anticipatory bail.

Notice of motion.

Ms. Safia Gupta, Assistant Advocate General, Haryana, who has also joined the proceedings through video conference, keeping in view the service of advance copy of petition, accepts notice on behalf of the respondent-State. Learned State counsel states that the present FIR was registered keeping in view the direction given by the Family Court, which was mislead by the petitioner alongwith the other co-accused to procure an order under Section 13-B of the Hindu Marriage Act, 1995 by stating wrong facts.

I have heard learned counsel for the parties and have gone through the record carefully.

It is not disputed by the learned State counsel and rather it has been conceded that co-accused of the petitioner, namely, Harjeet Singh Sandhu and Jaspal Singh Sandhu have already

been granted the benefit of anticipatory bail by this Court while deciding CRM No. M-19787 of 2020 on 21.07.2020. The order dated 21.07.2020 passed by this Court in CRM No. M-19787 of 2020 is as under :-

“Learned counsel for the petitioners refers to the judgment dated 15.02.2016 (Annexure P-7) passed by the District Judge, Family Court, Gurugram, whereby mutual divorce was granted to petitioner No.1- Harjeet Singh Sandhu. Thereafter, petitioner No.1 went to New Zealand in order to complete his education. There was no child from the above said wedlock.

Grievance of the petitioners is that at the back of petitioner No.1, a suit for declaration to the effect that the decree of divorce was null and void, was filed. The said suit was decreed vide judgment dated 20.05.2020 (Annexure P-10). Against the said judgment, petitioner No.1 has filed an appeal i.e. FAO No.2647 of 2020, which is pending consideration before this Court. Learned counsel for the petitioners states that petitioner No.1 was proceeded against ex-parte in the aforesaid suit.

Notice of motion.

On the asking of the Court, Mr. Karan Singh, AAG, Haryana accepts notice on behalf of respondent-State and seeks time to get instructions.

Adjourned to 30.09.2020.

Meanwhile, the petitioners are directed to join the investigation as and when called by the Investigating Officer. In the event of their arrest, they shall be released on bail by the Investigating Officer on their furnishing bail bonds/sureties to his satisfaction, subject to the following conditions, as envisaged under Section 438(2) Cr.P.C.:-

- (i) that the petitioners shall make themselves available for interrogation by a police officer as and when required;*
- (ii) that the petitioners 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 them from disclosing such facts to the Court or to any police officer;*
- (iii) that the petitioners shall not leave India without the previous permission of the Court.*
- (iv) such other condition as may be imposed under sub section (3) of Section 437, as if the bail were granted under that section.*

Once, it is conceded that co-accused have been granted

the benefit of anticipatory bail by this Court, the same benefit cannot be denied to the petitioner unless any differentiating fact is brought to the notice of this Court, which dis-entitle the petitioner the benefit, as extended to similarly situated co-accused. In the present case, learned State counsel very fairly concedes that there are no differentiating facts between the petitioner and co-accused.

That being so, petitioner has made out a case for the grant of anticipatory bail.

Petitioner is directed to join the investigation forthwith.

In the event of her arrest, she shall be released on interim bail to the satisfaction of the Arresting Officer/Investigating Officer on her furnishing bail bonds/surety bonds to her satisfaction subject to the following conditions :

- (i) That she shall make themselves available for interrogation by the police officer as and when required.*
- (ii) That she 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 her from disclosing the said facts to the Court or to any police officer.*
- (iii) That she shall not leave India without prior permission of the Court.*
- (iv) That she shall abide by all the conditions as enshrined under Section 438(2) Cr.P.C.*

Adjourned to 06.09.2020.

It is, however, made clear that after the petitioner join the investigation, in case any incriminating material comes against the petitioner, the respondent-State will be at liberty

to file appropriate application seeking the custody of the petitioner in case, the same is needed.”

Learned State counsel, who has also joined the proceedings through video conference, on instructions from ASI Anil Kumar states that in terms of the order of this Court reproduced before, the petitioner has joined the investigation and no further interrogation is required, at this stage.

In view of the above, the order dated 21.08.2020 granting interim bail to the petitioner is made absolute.

However, the petitioner shall abide by the conditions stipulated under Section 438(2) Cr.P.C. He shall also join investigation as and when called upon to do so.

In case at any given point of time hereinafter, it is felt by the Investigating Agency that petitioner is required for the investigation but is not co-operating, it will be at liberty to approach this Court for passing appropriate orders.

The petition stands disposed of.

September 28, 2020
kanchan/naresh.k

(HARSIMRAN SINGH SETHI)
JUDGE

Whether reasoned/speaking? *Yes*
Whether reportable? *No*