

Babbu

.....Petitioner

Vs.

State of Punjab

....Respondent

CORAM : HON'BLE MR.JUSTICE AMOL RATTAN SINGH

Present: Mr. Gulshan Sharma, Advocate,
for the petitioner.

Mr. Rana Harjasdeep Singh, DAG, Punjab.

AMOL RATTAN SINGH, J. (Oral)

Case heard via video conference.

On July 16, 2021, the following order had been passed by this
court:-

“Case heard via video conferencing.

By this petition, the petitioner seeks the concession of 'anticipatory bail' under the provisions of Section 438 of the Cr.P.C., upon FIR no.208, dated 24.10.2015, having been registered at Police Station City Ferozepur, alleging therein the commission of offences punishable under Sections 326, 324, 323, 342 and 149 of the IPC.

Mr. Sharma, learned counsel for the petitioner, first points to the contents of the FIR and to the proceedings recorded immediately thereafter by the police, to the effect that the complainant in the FIR, i.e. Sonu Deva, had earlier got registered FIR no.155, dated 28.07.2015, alleging therein the commission of offences punishable under Sections 377, 420 and 120-B of the IPC, with him next pointing to the fact the complainant had earlier filed CRMM-40215 of 2015 before this court, seeking a direction to get a fair investigation conducted in the FIR in question presently, and in reply to that petition, the DSP City Ferozepur, had filed an affidavit dated 21.02.2016, disclosing therein the fact of the FIR earlier lodged by the complainant in July 2015 (referred to hereinabove), in which the allegation was against one Gurpreet Singh and others, to the effect that the complainants' marriage was solemnized with Gurpreet Singh and that Gurpreet Singh had committed an unnatural act with him, but with the complainant disclosing himself to be a female in that petition.

Mr. Multani, learned AAG, Punjab, submits, on instructions, that in fact the petitioner is not in the process of being arrested at all in view of the aforesaid circumstances and with the investigation still ongoing, by a special investigation

team constituted; and further, that in fact the complainant, Sonu Deva, is not traceable at all.

Mr. Sharma, learned counsel for the petitioner, has also submitted that in fact the complainant is actually a hermaphrodite (i.e. neither a woman or a man) and therefore the allegations as made in the FIR in question, are obviously without any basis whatsoever.

In view of the above, without making any final comment on the matter, the petitioner is directed to join investigation within five days and upon him so joining if he is sought to be arrested, he would be released on bail, on his furnishing adequate bail and surety bonds to the satisfaction of the arresting officer/Ilaqa Magistrate.

He shall, further, 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 Ilaqa Magistrate immediately, who would then summon the arresting officer and direct him to join him in investigation.

Adjourned to 10.09.2021.”

Today, learned State counsel submits, on instructions from ASI Gurmeet Singh, that the petitioner has joined investigation today only but that his custodial interrogation is not required.

That being so, without making any comment on the actual merits of the case, this petition has actually been rendered infructuous and is disposed of as such.

However, if the petitioners' custodial interrogation is required at any stage hereinafter, in the context of the FIR in question, he would be given 10 days notice before arrest, duly shown to be served upon him.

Naturally, if the complainant is aggrieved in any manner, of lack of proper investigation, he would be always at liberty to avail of his remedy as per law.

September 10, 2021

dharamvir

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned : YES
Whether Reportable : NO