

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

205

CRM-M-30717-2020 (O&M)

Date of decision:14.01.2021

Aashish Dahiya

...Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

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

Mr. Apoorv Garg, D.A.G. Haryana.

HARNARESH SINGH GILL, J. (ORAL)

Case is taken up for hearing through video conferencing.

Through the instant petition under Section 438 Cr.P.C., the petitioner seeks anticipatory bail in case FIR No. 55 dated 28.07.2020 registered under Sections 498-A, 377, 506, 34 IPC (Section 376(2)(n) IPC added later on), at Women Police Station Gurugram, District Gurugram.

This Court, on 01.10.2020, passed the following order:

“Case is taken up for hearing through video conferencing.

Through the instant petition under Section 438 Cr.P.C., the petitioner seeks anticipatory bail in case FIR

No. 55 dated 28.07.2020 registered under Sections 498-A, 377, 506, 34 IPC (Section 376(2)(n) IPC added later on), at Women Police Station Gurugram, District Gurugram.

Learned counsel for the petitioner states that the petitioner has falsely been implicated in the present case. The complainant is a married lady of 43 years of age having 2 children and had lived in a live-in-relationship with the petitioner for about 4 years.

Learned counsel for the petitioner further states that even in the FIR, the complainant has stated that she had been socially divorced and leading a single lady life.

In support of his case, learned counsel for the petitioner relies upon Dr. Dhruvaram Murlidhar Sonar V. State of Maharashtra and others, 2019(1) RCR (Criminal) 674 and Ataullah Fakruddin Ansari V. State of Maharashtra, reported as 2020 SCC OnLine Bom 856.

Notice of motion.

On the asking of this Court, Mr. Ramesh Kumar Ambavta, AAG Haryana, accepts notice on behalf of the respondent-State and on instructions from ASI Rekha, submits that there are serious allegations against the petitioner that he had promised the complainant to marry but resiled from his promise after getting selected as a Constable in Haryana Police.

In the present case, the complainant herself has admitted in the FIR that she had been in a live-in-relationship with the petitioner since 2016 and before that she was leading a single lady life.

In case of Parmod Suryabhan Pawar Vs. The State of Maharashtra and another, 2019(4) RCR (Criminal) 135, the Hon'ble Supreme Court has held that the consent under Section 375 IPC involves an active understanding of the circumstances, actions and consequences of the proposed act and that an individual who makes reasoned choice to act after evaluating various alternative actions (or inaction) as well as the various possible consequences flowing from such action or inaction, consents to such action.

Adjourned to 14.01.2021.

Meanwhile, the petitioner is directed to join the

investigation and if he is sought to be arrested, he shall be released on interim bail to the satisfaction of Investigating Officer/Arresting Officer subject to the conditions as envisaged in Section 438 (2) of the Code of Criminal Procedure.”

Learned counsel for the petitioner submits that pursuant to the order dated 01.10.2020 passed by this Court, the petitioner has joined the investigation.

Learned State counsel, on instructions from A.S.I. Rekha, submits that the petitioner has joined the investigation and is not required for any further investigation.

In view of the above, without commenting on the merits of the case, the present petition is allowed and the order dated 01.10.2020 granting interim bail to the petitioner, is made absolute, subject to the conditions laid down in Section 438 (2) Cr.P.C.

14.01.2021

Aman Jain

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No