

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-16-2022

Date of decision : 04.02.2022

Rajwinder Pal Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Neeraj Yadav, Advocate
for the petitioner.

Mr.Karanbir Singh, AAG, Punjab.

Mr.Vipin Mahajan, Advocate
for the complainant.

(Through Video Conferencing)

VIKAS BAHL, J.(ORAL)

This is a first petition under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in FIR no.0222 dated 16.11.2021 registered under Section 380 IPC at Police Station City Gurdaspur, Gurdaspur.

On 05.01.2022, this Court was pleased to pass the following order:-

“Learned counsel for the petitioner has submitted that in the present case, the complainant was earlier married to elder brother of the petitioner namely Sukhjinder Pal Singh and two daughters were born out of the said wedlock and after the untimely death of brother of the petitioner, the petitioner married the complainant on 30.07.2007 and thereafter, one FIR

No.55 dated 29.05.2021 under Sections 493, 420, 509, 323, 506 of IPC at Police Station Dhariwal, Gurdaspur was registered against the petitioner and the petitioner had applied for anticipatory bail in the said case and the Coordinate Bench of this Court vide order dated 24.11.2021 was pleased to grant anticipatory bail to the petitioner and directed the petitioner to make two FDs for an amount of Rs.1,00,000/- each in favour of two daughters of the complainant. It is argued that the said direction was duly complied with and the interim bail granted to the petitioner was confirmed. It is further argued that the petitioner had further stated that he would hand over the documents/certificates of the complainant to the Investigating Officer and has submitted that whatever documents, the petitioner had possessed, he had already handed over them to the Investigating Officer and has referred to the recovery memo dated 04.12.2021 (Annexure P-3) with respect to the same. It is contended that now the present FIR has been registered on the ground that certain certificates/other articles are still in possession of the petitioner. It is further contended that the petitioner is ready to join the investigation and to cooperate with the Investigating Agency.

Notice of motion.

On asking of the Court, Mr. Sarabjit S. Cheema, AAG, Punjab, appears and accepts notice on behalf of State of Punjab and seeks time to get instructions.

Mr. Vipin Mahajan, Advocate appears on behalf of the complainant and has opposed the present petition for grant of anticipatory bail to the petitioner and has submitted that as per the order granting anticipatory bail in the earlier case, it was stated by learned counsel for the petitioner in the said case that the petitioner would have no objection in handing over the

testimonials/certificates and other documents in respect of educational qualification of the complainant to the Investigating Officer but the educational documents and all the other articles have not been handed over by the petitioner and has submitted that the said documents are very necessary for the future of the daughters of the complainant.

Learned counsel for the petitioner in rebuttal has submitted that the petitioner has handed over all the documents which he had, to the police and is not in possession of any further documents. It is also submitted that once the petitioner had complied with the conditions of making two FDs of Rs.1,00,000/- each in the name of two daughters of the complainant, it cannot be believed that the petitioner would retain the documents which are of no value to the petitioner.

List on 27.01.2022.

In the meantime, in the event of arrest, the petitioner shall be released on interim bail subject to his furnishing personal bonds and surety to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall join the investigation as and when called upon to do so and shall abide by the conditions as provided under Section 438(2) Cr.P.C.”

Learned counsel for the petitioner has submitted that in pursuance of the said order, the petitioner has already joined the investigation.

Learned State counsel, on instructions from ASI Amanpreet Kaur, has submitted that although the petitioner has joined investigation but the educational qualification certificate(s)/documents has not been returned to the complainant.

Learned counsel appearing for the complainant has opposed the

petition for anticipatory bail and apart from reiterating the submissions which had been made on 05.01.2022, has further submitted that in fact the present petitioner is in a “Live in Relationship” with Sarabjit Kaur and regarding the same he had filed criminal writ petition along with Sarabjit Kaur for protection of their life and liberty. Learned counsel for the complainant has further submitted that the complainant will now have to apply for the educational qualification certificate(s)/document(s) for which she will have to bear the expenses also, and thus, the petitioner should be directed to pay for the said expenses.

Learned counsel for the petitioner, in rebuttal, has submitted that the petitioner would pay an amount of Rs.20,000/- within a period of two weeks from today, by making a demand draft in the name of the complainant and the said demand draft would be handed over to the counsel for the complainant Mr.Vipin Mahajan.

Keeping in view the above said facts and circumstances moreso, the facts which have been noticed in the order dated 05.01.2022 and also the fact that the petitioner has joined investigation and also that the petitioner is ready to bear the expenses with respect to educational qualification certificate(s)/document(s), the present petition is allowed and the interim order dated 05.01.2022 is made absolute.

The said order would be subject to the petitioner preparing a demand draft of Rs.20,000/- in the name of the complainant within a period of 2 weeks from today, and the said demand draft would be handed over by learned counsel for the petitioner to learned counsel for the complainant to be further handed over to the complainant.

It is made clear that in case the demand draft of Rs.20,000/- is

not handed over within the aforesaid period, then it would be open to the complainant to move an application for cancellation of present anticipatory bail.

Nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

(VIKAS BAHL)
JUDGE

February 04, 2022
Davinder Kumar

Whether speaking / reasoned	Yes/No
Whether reportable	Yes/No