

**206 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-1201-2022

Date of decision: 16.03.2022

Gurprakash Singh Sidhu

.....Petitioner

versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Akashdeep Singh, Advocate
for the petitioner.

Ms. Anju Sharma Kaushik, DAG, Punjab
for the respondent-State.

FATEH DEEP SINGH, J.

Due to outbreak of pandemic COVID-19, the instant case is being taken up for hearing through video conferencing.

The accused/petitioner-Gurprakash Singh Sidhu was married to the complainant-Prabhjot Kaur on 06.01.2016 and subsequently, on account of matrimonial dispute, they had fallen apart. It is admitted that this was second marriage of the couple. The complainant alleged besides other allegations of having given adequate dowry/*Istridhan* at the time of marriage and the fact that

the family of the petitioner was not happy and so the petitioner himself. It is as a consequence of this, the couple entered into multiple litigations and the present FIR No.296 dated 26.11.2018 under Sections 498-A, 506, 376-B, 406 of the Indian Penal Code (Section 376 IPC added later on) registered at Police Station City Kapurthala District Kapurthala, is one of them.

The brief allegations in the complaint are that in spite of efforts and reconciliation, nothing materialized. The wife levelled allegations of cruelty, criminal intimidation and allegations of commission of rape upon her during the period of their separation punishable under Section 376-B of the Indian Penal Code. Threatened with his arrest, the petitioner has moved this Court by way of anticipatory bail bearing No.CRM-M-4526-2019 and this Court vide order dated 30.05.2019, the orders of interim bail earlier granted to the petitioner was made absolute. It is subsequent thereto, another bail application for anticipatory bail bearing No.CRM-M-53516-2019 was filed by the petitioner and it was on the statement of the learned State counsel, this Court had again made interim bail absolute vide order dated 12.03.2020. It needs to be reiterated here that upon submission of the challan faced with the ignominy of addition of offence under Section 376 IPC, the

petitioner has again filed the instant anticipatory bail. Though, on behalf of the State, strong opposition has been made for the grant of bail on the premise that trial is yet to initiate and if allowed bail, there is likelihood that petitioner might influence the trial. The same is opposed by learned counsel for the petitioner holding that no offence under Section 376 IPC is made out and it is a pure insinuation levelled by the disgruntled estranged wife to strengthen her allegations and to take revenge for this matrimonial dispute.

Be so as it may, admittedly, initially during investigations, offence under Section 376-B was slapped, besides other offences, in which this Court had granted interim bail twice and which were made absolute subsequently on the stand of the State.

The stand of the two sides oscillates between offence of rape punishable under Section 376 IPC and punishable under Section 376-B IPC, the latter prescribes sentence which shall not be less than 02 years and may extend to 07 years and is a bailable one. While offence under Section 376 IPC is on a higher pedestal for its gravity. It is a matter of trial based on evidence which is led therein the Court would be able to make out the commission which of the either offences and at this juncture to hold so would be too

preposterous as there is a hairline difference between these two offences. More so, it is after 06 years of marriage when the couple has a history of innumerable bickering and litigations, this has come about and it would be travesty of justice to send the petitioner behind the bars at this juncture and his joining the trial would suffice the purpose. Accordingly, the present petition is allowed. The petitioner is directed to appear before the Trial Court within a period of 15 days from the date of receipt of certified copy of this order and on his doing so, he shall be released on bail to the satisfaction of the Trial Court concerned. The petitioner shall continue to join investigation and shall furnish an undertaking that he shall abide by the conditions specified under Section 438 (2) Cr.P.C.

The present petition stands disposed off accordingly.

16.03.2022

Neha

(FATEH DEEP SINGH)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No