

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

208

CRM-M-35085 of 2021
Date of decision:21.02.2022

Nitesh Dhull

... Petitioner

Vs.

State of U.T.Chandigarh

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Gaurav Chopra, Senior Advocate with
Mr. Anurag Chopra, Advocate and
Mr. Dhruv Sood, Advocate
for the petitioner.

Ms. Simsi Dhir Malhotra, APP U.T.Chandigarh.

SUVIR SEHGAL, J. (Oral)

Instant petition has been filed under Section 438 Cr.P.C seeking anticipatory bail to the petitioner in case FIR No.5 dated 18.01.2021 registered under Section 498-A of Indian Penal Code, 1860, however, Section 406 IPC was added later on 05.07.2021, at Women Police Station, Sector 17, Chandigarh (Annexure P-1).

Learned senior counsel submits that the FIR has been lodged on account of temperamental differences between the couple, who were unable to reside together. He submits that dispute between the parties has been resolved by virtue of compromise dated 09.02.2022 and in pursuance thereto, a petition seeking divorce by mutual consent has been instituted under Section 13-B of Hindu Marriage Act, 1955 and part payment of Rs.5.00 lacs as permanent alimony has been made to the complainant-

respondent No.2 at the time of recording of first motion. He submits that pursuant to interim bail granted by this Court, the petitioner has joined the investigation.

State counsel upon instructions from SI Satish, has affirmed that the petitioner has joined the investigation. She has further instructions to state that the petitioner is no longer required for the custodial interrogation and that compromise has been entered into between the parties.

Heard counsel for the parties.

While granting interim protection to the petitioner, this Court passed the following order on 26.08.2021:-

“Learned Senior counsel appearing for the petitioner would contend that FIR No. 5 dated 18.01.2021 came to be registered under Section 498-A IPC at Women Police Station, Sector 17, Chandigarh, in which interim bail was allowed to the petitioner by the Court below vide order dated 29.04.2021, pursuant to which the petitioner had joined investigation. But it is only subsequent thereto that an offence under Section 406 IPC has been added to the FIR, therefore, prayer is made for grant of anticipatory bail in the said Section as well on the ground that since he has already joined the investigation, his custodial interrogation would not be required. It is submitted that it is an admitted fact that the dowry articles have already been taken away by the complainant while leaving the

matrimonial home on 10.01.2018 and the bills were furnished to the I.O. after a gap of almost three years.

Notice of motion for 21.02.2022.

Ms. Simsi Dhir Malhotra, APP, UT appearing through the medium of video conferencing accepts notice on behalf of the respondent State.

Meanwhile, petitioner is directed to rejoin the investigation within a period of one week and on doing so, the petitioner be released on interim bail to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall continue to join the investigation as and when called upon to do so and shall abide by the conditions incorporated under Section 438(2) Cr.P.C.”

Keeping in view the fact that the FIR is an outcome of matrimonial dispute between the parties, the petitioner has joined the investigation, is no longer required and furthermore, the parties have settled the dispute, the present petition is allowed and the order dated 26.08.2021 granting interim bail to the petitioner is made absolute, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure.

February 21, 2022
savita

(SUVIR SEHGAL)
JUDGE

<i>Whether Speaking/Reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>Yes/No</i>