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

CRM-M-31786-2022

Date of decision : 25.07.2022

Sarbjeet Kaur

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

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

Mr. Sarabjit S. Cheema, AAG, Punjab.

Mr. Gobind Singh Randhawa, Advocate for the complainant.

VIKAS BAHL, J. (ORAL)

Prayer in the present petition is for grant of anticipatory bail to the petitioner in FIR No.222 dated 16.11.2021 registered under Section 380 of the Indian Penal Code, 1860 at Police Station City Gurdaspur, District Gurdaspur.

Learned counsel for the petitioner has submitted that initially, the FIR was registered only against Rajwinder Pal Singh and not against the present petitioner and the said Rajwinder Pal Singh had filed petition bearing No.CRM-M-16-2022 for grant of anticipatory bail, which was allowed vide order dated 04.02.2022 passed by this Court. It is further submitted that as far as the petitioner is concerned, she is sought to be

roped in the case only on account of being in live in relationship with the said Rajwinder Pal Singh and she has no role to play in the present FIR. It is contended that the certificates in question would mean nothing to the petitioner and thus, there is no reason for the petitioner to keep the same.

On the other hand, learned State Counsel and counsel for the complainant have opposed the present petition for grant of anticipatory bail to the petitioner and have submitted that the petitioner is involved in another FIR/case i.e. FIR No.55 dated 29.05.2021.

Learned counsel for the petitioner has submitted that the petitioner has given the details of the said case in para 6 of the petition and the said FIR has also been got registered by the same complainant and the petitioner has already filed anticipatory bail petition before this Court which is likely to be listed in near future. He has also relied upon the judgment of Hon'ble Supreme Court in **“Maulana Mohd. Amir Rashadi vs. State of U.P. and another”**, reported as **2012 (2) SCC 382** to contend that the facts and circumstances of the present case are to be seen and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in another case. The relevant portion of the said judgment is reproduced hereinbelow:-

“As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.”

This Court has heard the learned counsel for the parties and has perused the paper book.

The FIR was initially registered against Rajwinder Pal Singh who is the husband of the complainant and the said Rajwinder Pal Singh had come before this Court for grant of anticipatory bail and the said Rajwinder Pal Singh was granted the same vide order dated 04.02.2022 passed by this Court in CRM-M-16-2022. The said order is reproduced hereinbelow:-

“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.”

A perusal of the abovesaid order would show that in the earlier FIR i.e. FIR No.55, the said Rajwinder Pal Singh was accused and he had applied for the concession of anticipatory bail and was directed to make two FDs for an amount of Rs.1 lac each in favour of the two daughters of the complainant and was also directed to handover the documents/certificates. It was observed that the said FDs were prepared and it was case of the abovesaid Rajwinder Pal Singh that he had given all the documents which were in his possession and there was no reason for him to not hand over the said documents when he had already complied with the condition of making the said two FDs of Rs.1 lac. Even argument to the effect that the said documents are of no use to the accused persons were also noticed. The said Rajwinder Pal Singh however had paid an amount of Rs.20,000/- by way of demand draft prepared in the name of complainant being the expenses of applying for the new documents/educational qualification certificates. There is no dispute that the said amount has been paid. The present petitioner seems to have been roped only on account of being in a live in relationship with

the abovesaid Rajwinder Pal Singh.

Keeping in view the abovesaid facts and circumstances, the present petition is allowed and in the event of arrest, the petitioner is granted the concession of anticipatory bail subject to her furnishing personal bonds and surety to the satisfaction of Arresting/Investigating Officer and the conditions envisaged under Section 438(2) of Cr.P.C. However, the petitioner shall join the investigation as and when called upon to do so.

It is made clear, in case, the petitioner fails to join the investigation or does not cooperate with the investigation, then the State would be at liberty to move an application for cancellation of the present anticipatory bail granted to the petitioner.

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 application.

25.07.2022

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No