

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

208

CRM-M-42974 of 2021 (O&M)
Date of decision:09.08.2022

Ashish Tanwar

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Amitabh Tewari, Advocate and
Mr. Shivam Sharma, Advocate
for the petitioner.

Ms. Mahima Yashpal, DAG, Haryana.

Mr. Chanderhas Yadav, Advocate
for the complainant.

SUVIR SEHGAL, J. (Oral)

Instant petition has been filed under Section 438 Cr.P.C., seeking grant of anticipatory bail to the petitioner in case FIR No.161 dated 06.08.2021 registered under Sections 313, 323, 406, 498-A, 506, 509 read with Section 34 of Indian Penal Code, 1860 at Women Police Station Jhajjar.

FIR in question has arisen out of a matrimonial dispute. This Court, vide order dated 23.11.2021 directed the petitioner to join investigation and granted him interim anticipatory bail. The order passed by this Court in the main case is reproduced as under:-

“Counsel for the petitioner submits that the petitioner is the husband of the complainant and the marriage between the

parties was solemnized on 21.02.2020. He submits that the FIR is a result of common wearing down of matrimonial life. In particular, by making a reference to a whatsapp chat between the petitioner and complainant, appended as Annexure P-4 as well as Annexures A-3 to A-5, counsel submits that it is a normal conversation between a couple and the husband-petitioner is expressing that he is not prepared to become a father at this stage of life. He urges that no coercion or force has been exerted by the petitioner on the complainant to abort the child. It is his argument that though specific allegation has been levelled in the FIR to the effect that the the mother-in-law of the complainant and her husband forced her to consume an abortion pill, but this allegation is not supported from the statement recorded by the complainant under Section 164 Cr.P.C. Still further, upon instructions, he submits that since there are allegations of embezzlement of a fixed deposit of Rs.8.5 lacs, petitioner is prepared to deposit the said amount with the Registrar General of this Court to show his bona fide.

State counsel, who is assisted by counsel for the complainant, has referred to the affidavit of Additional Superintendent of Police, Jhajjar dated 19.11.2021, which has been filed in Court and is taken on record, to submit that there are specific allegations attracting offence under Section 313 IPC against the petitioner. A reference has been made by them

to the medical reports, Annexures R-1 and R-2.

List on 22.03.2022.

Meanwhile, the petitioner shall join the investigation and would appear as and when called for by the Investigating Officer and in the event of arrest, the petitioner shall be admitted to interim bail on furnishing personal and surety bonds to the satisfaction of Arresting/Investigating Officer. The petitioner shall also abide by the conditions as specified under Section 438(2) Cr.P.C.

As offered by counsel for the petitioner, petitioner shall deposit an amount of Rs.8.5 lacs with the Registrar General of this Court within a period of two weeks' from today. The amount, if deposited, shall be kept by way of a fixed deposit with a public sector bank for a period of 06 months with instructions for automatic renewal, subject to further orders passed by this Court.

Counsel for the complainant has submitted that the amount of Rs.8.5 lacs should be released to the complainant. The request of the counsel is declined at this stage.”

Upon instructions from L/ASI Savita, State counsel submits that petitioner has joined investigation and is no longer required for custodial interrogation.

In view of the above facts, but without commenting on the merits of the case, the present petition is allowed and the order dated

23.11.2021 granting interim bail to the petitioner is made absolute, subject to the conditions laid down in Section 438(2) Cr.P.C.

The amount of Rs.8.50 lacs deposited by the petitioner pursuant to the above reproduced order, has been kept in a fixed deposit. The fixed deposit receipt is ordered to be remitted to the Trial Court with a direction that the deposited amount and interest accrued thereon shall be disbursed to the party, who is found entitled to the same on conclusion of the trial.

It is clarified that deposit of this amount by the petitioner is without prejudice to his right of defence.

August 09, 2022
savita

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes/No