

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

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CRM-M-50170 of 2022
Date of Decision:31.10.2022

Balwinder SinghPetitioner

Vs

State of PunjabRespondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr.Jasraj Singh, Advocate,
for the petitioner.

RAJESH BHARDWAJ, J. (Oral)

Petitioner has filed the present petition seeking grant of anticipatory in case FIR No.217 dated 24.08.2022, under Sections 498-A of IPC, registered at Police Station Tanda, District Hoshiarpur.

It has been contended by the learned counsel for the petitioner that the petitioner was married with Amandeep Kaur on 14.03.2018 and thereafter they were blessed with two daughters. He has submitted that there was no matrimonial discord between the husband and wife. He has submitted that on 19.08.2022 the petitioner took his ailing mother who was a kidney patient, to hospital and on his return he found that his wife and both daughters were missing. He tried his level best to search them, but failed to trace them out. He has submitted that on the same date he gave missing complaint to the police and the police registered the same vide GD No.35, dated 21.08.2022. He has submitted that the petitioner has no role whatsoever in compelling his wife to leave the matrimonial home

alongwith her daughters and he is still trying to trace them. However, uncle of his wife has lodged the FIR on the basis of false and frivolous allegations. He submits that the allegations in the FIR of causing harassment to his wife are totally false and frivolous. He relies upon **Arnesh Kumar vs. State of Bihar and another**, 2014(3) SCC (CrI.) 449 and submits that the petitioner has no criminal antecedents and there is a serious apprehension of his arrest in the FIR lodged. He has submitted that no case for custodial interrogation of the petitioner is made out and hence the petitioner be granted anticipatory bail.

Notice of motion.

Mr.Sandeep Kumar, DAG, Punjab, accepts notice on behalf of the respondent State and vehemently opposes the contentions raised by learned counsel for the petitioner. He, on instructions from ASI Avtar Singh, has submitted that the dispute is not a simpliciter matrimonial dispute. He has submitted that so far in the investigation it has emerged that the petitioner has been harassing his wife since the date of their marriage. The investigating agency has recorded the statement of Karanjeet Kaur alias Palavi who is the cousin of the wife of the petitioner who met her last time wherein she has stated that wife of the petitioner told her that she was being harassed by her husband. He submits that she has further stated that the wife of the petitioner told her that she was going to jump in the canal as she had no other option. He has further submitted that as per Karanjeet Kaur alias Palavi

she handed over her belongings to her another cousin Rajji, who is presently living in Itlay. He further submits that the mother of the wife of the petitioner had already died. He submits that the investigation in the case is at threshold and whereabouts of the wife of the petitioner and the two minor daughters has not yet been known and the investigating agencies are trying their best to trace them out. He has submitted that granting anticipatory bail at this stage would hamper the ongoing investigation and thus the petitioner has no case of grant for anticipatory bail.

Heard.

The relationship of the petitioner with the missing wife and the two daughters is not in dispute. There are allegations in the FIR that there was a dispute between the husband and wife. The in-laws of the petitioner tried their level best to resolve the dispute however the same did not yield any result. The wife alongwith both the minors is missing since 19.08.2022 and is yet to be traced. Learned State counsel has submitted that it has been disclosed by Karanjeet Kaur alias Palavi, who met the wife of the petitioner that she was leaving her matrimonial home because of the harassment caused by the petitioner and his mother. The Hon'ble Apex Court in plethora of judicial precedents has time and again reiterated that while considering the anticipatory bail, the Court is to take into consideration the following factors like:-

“(i) the nature and gravity of the accusation;
(ii) the antecedents of the applicant including the fact as to whether he has previously undergone imprisonment on conviction by a Court in respect of any cognizable offence;
(iii) the possibility of the applicant to flee from justice; and
(iv) where the accusation has been made with the object of injuring or humiliating the applicant by having him so arrested,
either reject the application forthwith or issue an interim order for the grant of anticipatory bail.”

The Court cannot be oblivious of the fact that the wife of the petitioner alongwith two minors is yet to be traced. In all the probabilities granting anticipatory bail at this stage would have an adverse effect on the investigation. Hon'ble the Supreme Court in **State represented by CBI Vs. Anil Sharma**, (1997) 7 SCC 187 has held as under:-

“6. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconded with a favorable order under Section 438 of the code. In a case like this effective interrogation of suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Succession such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail during the time he interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The court has to presume that responsible Police Officers would conduct themselves in task of disinterring offences would not conduct themselves as offenders.”

Hence, this Court is of the opinion that the petitioner does not qualify for exercising the extraordinary power by this Court in his favour for grant of anticipatory bail. Resultantly, the petition being devoid of any merit is hereby dismissed.

31.10.2022

dharamvir/

**(RAJESH BHARDWAJ)
JUDGE**

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