

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

203

CRM-M No.52 of 2023
Date of Decision: 17.11.2023

Surender Singh

... Petitioner

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Balkar Singh, Advocate and
Mr. Divij Datt, Advocate,
for the petitioner.

Ms. Himani Arora, AAG, Punjab,
for the respondent-State.

Mr. Amit Puri, Advocate,
for respondent No.2.

MANISHA BATRA, J.

1. Through the instant petition under Section 438 of Code of Criminal Procedure, the petitioner seeks anticipatory bail in case FIR No.105, dated 07.12.2022, registered under Sections 406 and 498-A of IPC, at Police Station Women, District Patiala.

2. Vakalatnama on behalf of petitioner has been filed and the same is taken on record.

3. Vakalatnama on behalf of respondent No.2 has also been filed and the same is taken on record.

4. The facts relevant for the purpose of disposal of this petition are that the aforementioned FIR had been registered on the basis of complaint filed by the respondent No.2-complainant Jagbir Kaur on 07.12.2022 alleging therein that she was married with the petitioner on

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07.11.2021. Shortly after her marriage, the petitioner who was serving Indian Army had started misbehaving with her and mistreating her on account of bringing insufficient dowry by her. He used to become aggressive and started abusing and physically assaulting her. The respondent had become pregnant in December 2021 but the behaviour of the petitioner did not improve. He used to proclaim that he did not want to keep her as his wife and wanted to get the child in her womb aborted. She was made to leave her matrimonial house and, therefore, prayed for taking penal action against the culprit.

5. After registration of FIR, investigation proceedings were initiated and are going on. The petitioner had moved an application for grant of anticipatory bail before the Court of learned Additional Sessions Judge, Patiala which had been dismissed vide order dated 22.12.2022.

6. The present petition has been filed by the petitioner submitting therein that he has been falsely implicated in this case. The subject offences were not even prima facie made out against him. There was no allegation regarding demand of any dowry being raised by him or qua criminal misappropriation of any property/istridhan entrusted by the respondent-complainant. His custodial interrogation was not required and he was ready to join the investigation.

7. Vide order dated 05.01.2023, the petitioner was directed to join the investigation. Today, learned State counsel has submitted that as per the instructions received by him from HC Rahul Kumar, the petitioner has joined the investigation on 13.01.2023. It is submitted that recovery of some of the dowry articles remains to be effected from him. It is debatable question as to whether the offences punishable under Sections 406 and

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498-A of IPC have been made out at all on the basis of the allegations as levelled in the FIR. Mere non-recovery of some disputed dowry articles cannot by itself be a ground for denial of the bail as has also been observed by Hon'ble Supreme Court in case **Writ Petition (Civil) No.73 of 2015**, titled as '**Social Action Forum for Manav Adhikar v. Union of India, Ministry of Law and Justice**' decided on 14.09.2018 and by Delhi High Court in **Pooran Singh v. State of Delhi**, 2022 (1) R.C.R. (Criminal) 503 wherein it was held that recovery of istridhan/dowry was no ground to arrest a person under Section 498-A of IPC. The custodial interrogation of the petitioner is no more required. No useful purpose would be served by detaining him in custody.

8. Keeping in view the entire facts and circumstances, I am of the considered opinion that it is a fit case for exercising powers under Section 438 of Cr.P.C. and for extending benefit of anticipatory bail to the petitioner. Hence, the petition is allowed and the order dated 05.01.2023 is made absolute subject to the conditions that the petitioner shall appear before the Arresting Officer/Investigating Officer within ten days and shall join the investigation as and when required by the Investigating Officer and subject to other usual terms and conditions of Section 438 (2) of Cr.P.C.

17.11.2023

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(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No