

2023:PHHC:118460

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

CRM-M-1178-2023

Date of Decision: 11.09.2023

**BALWINDER SINGH @ BALWINDER KUMAR AND ANR
... PETITIONERS**

VS.

STATE OF PUNJAB

.. RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present : Ms. Reena Verma, Advocate
for the petitioners.

Ms. Ruchika Sabherwal, DAG, Punjab.

Mr. Dheeraj Mahajan, Advocate
for the complainant.

VIVEK PURI, J.(ORAL)

1. On 10.01.2023, the following order was passed:-

“Through instant petition under Section 438 of Code of Criminal Code, 1973, the petitioner is seeking anticipatory bail in FIR No.236 dated 08.12.2022 registered at Police Station City Dinanagar, District Gurdaspur, under Sections 498A and 406 of IPC

Learned counsel for the petitioner *inter alia* contends that petitioners are father and mother-in-law of the complainant. The son of the petitioners is residing in Kuwait for last 6 years and complainant wants to settle in Canada which is bone of dispute. From the perusal of FIR, no offence of dowry is made out against the petitioners. There are no specific allegations against the petitioners to invoke rigour of Section 498A and 406 of IPC. The petitioners are old age persons and ready to join the investigation. The petitioners are innocent persons and they have not committed the alleged offence. The petitioners are not involved in any other offence. The

petitioners are permanent resident of District Gurdaspur and staying with his family members. There is no possibility of flee from justice. The arrest would cause irreparable loss, mental agony, embarrassment and humiliation to petitioners as well entire family.

Notice of motion returnable for 03.03.2023.

Mr. Amish Sharma, AAG, Punjab, who is present in court on advance notice, seeks time to file status report.

Meantime, keeping in mind law enunciated by Hon'ble Supreme Court in Thana Singh v. Central Bureau of Narcotics, (2013) 2 SCC 590, Arnab Manoranjan Goswami V. State of Maharashtra, (2021) 2 SCC 427, Satender Kumar Antil V. CBI (2022) 10 SCC 51, Siddharam Satlingappa Mhetre V. State of Maharashtra & Ors., 2010 SCC OnLine SC 1375, Shri Gurbaksh Singh Sibbia V. State of Punjab (1980) 2 Supreme Court Cases 565, Arnesh Kumar V. State of Bihar (2014) 8 SCC 273, at the first instance, the petitioner is directed to appear before investigation officer on 19.01.2023 and thereafter as directed by IO. In the event of arrest, the petitioner shall be admitted to interim bail on furnishing of bail/surety bonds to the satisfaction of investigating/arresting officer. The petitioner shall co-operate the investigating officer.

If the arresting officer does not permit the petitioner to join the investigation, the petitioner would appear before the learned Illaqa Magistrate who would then summon the arresting officer and direct him to join the petitioner in investigation, in terms of the order of this Court."

2. As per the report received from the Mediator, despite efforts, the parties could not reach at any amicable settlement.

3. Learned counsel for the petitioners contend that the petitioners are the father-in-law and mother-in-law of the complainant. They are not in possession of any article of istridhan and in pursuance of interim directions, they have joined the investigation.

4. Learned State counsel, on instructions from ASI Gurnam Singh, submits that though the petitioners have joined the investigation but recovery of 6 tolas of golden jewellery and some articles of istridhan are yet to be effected.

5. Learned counsel for the complainant has opposed the bail application on the score that the son of the petitioners has deserted the complainant and has gone abroad and the petitioners are not ready and willing to rehabilitate the complainant in her matrimonial house.

6. Be that as it may, the controversy as to whether the articles of istridhan and golden jewellery were entrusted to the petitioners and has been misappropriated by them will be a debatable and moot point during the course of trial. The petitioners have joined the investigation in pursuance of interim directions and their custodial interrogation is not required. As such, sufficient exceptional circumstances are made out to extend the concession of pre-arrest bail to the petitioners. Accordingly, order dated 10.01.2023, vide which the petitioners have been granted interim bail, is made absolute.

7. Petition is allowed.

11.09.2023
smriti

(VIVEK PURI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No