

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

226

CRM-M-1821-2023

Date of Decision: 24.02.2023

Ali Singh

...Petitioner

Versus

State of Punjab and Another

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Shivam Joshi, Advocate for
Mr. Tarun Sharma, Advocate for the petitioner

Mr. Amish Sharma, AAG, Punjab
(assisted by ASI Balwinder Singh)

JAGMOHAN BANSAL, J. (ORAL)

On 13.01.2023, 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.0151 dated 04.07.2022 (Annexure P-1) registered at Police Station Sadar Ferozepur, District Ferozepur, under Sections 376 of Indian Penal Code, 1860.

The case of prosecution, as per FIR, is that complainant, who is a 28 years old lady has tendered a statement before Investigating Officer that her first marriage with Saraj Singh was dissolved in the year of 2016 and she has a 10 years old girl child. She is in a relationship with Ali Singh (petitioner) for last two and a half years, who promised her to marry. On 18.06.2022, Ali Singh turned her out of home and she got herself medico legally examined, however, with the intervention of respectables, the matter was sorted out. She again started living with Ali Singh, who promised her to marry. He did not solemnize marriage and left home without informing her.

Accordingly, FIR under Section 376 of IPC was registered.

Learned counsel for the petitioner, inter alia, contends that complainant is major and physical

*relations were made with the consent of both parties which is undisputed. The only grouse of complainant is that petitioner is not solemnizing marriage with the complainant which cannot be ground to invoke rigor of Section 376 IPC. The complainant had also filed application against Danish alias Aman, resident of Moga Road, Ferozepur, alleging sexual assault. The complaint was enquired and found false. The petitioner, in view of judgment of Hon'ble Supreme Court in **Siddharam Satlingappa Mhetre V. State of Maharashtra & Others, 2010 SCC OnLine SC 1375**, deserves to be granted concession of anticipatory bail. The petitioner is not involved in any other offence. The petitioner is permanent resident of District Ferozepur. The petitioner is ready to join investigation and face trial. There is no possibility of flee from justice. No recovery has to be effected from the petitioner. The arrest would cause irreparable loss, mental agony, embarrassment and humiliation to petitioner as well entire family.*

*Notice of motion returnable for **24.02.2023**.*

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 & Others, 2010 SCC OnLine SC 1375; Shri Gurbaksh Singh Sibbia V. State of Punjab (1980), 2 Supreme Court Cases 565**; at the first instance, the petitioner is directed to appear before Investigating Officer on **20.01.2023** and thereafter as directed by Investigating Officer. 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.”

Learned State counsel, on instructions from ASI Balwinder Singh, submits that the petitioner has already joined investigation and no custodial interrogation is required.

In view of the above, the petition is allowed and the interim bail granted to the petitioners vide order dated 13.01.2023 is made absolute subject to the conditions envisaged under Section 438(2) of Cr.P.C.

If the petitioner or his family members/associates make any attempt to threat/intimidate the witnesses in the present case, the State would be at liberty to move an application for cancellation of bail granted by this order.

Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and Trial Court shall proceed without being prejudiced by observations of this Court.

(JAGMOHAN BANSAL)
JUDGE

24.02.2023
Mohit Kumar

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>