

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-6233-2023

Date of Decision: 06.02.2023

Dhiraj Kumar Shukla

... Petitioner

VS.

State of Haryana & Ors.

... Respondents

CRM-M-6227-2023

Dhiraj Kumar Shukla

... Petitioner

VS.

State of Haryana & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. Naresh K Chhokar, Advocate for the petitioner

Sandeep Moudgil, J.

This order shall dispose of the above-cited two criminal miscellaneous petitions filed by Dhiraj Kumar Shukla as the issue involved is common. For the purpose of order, CRM-M-6233-2023 is treated as the lead case.

The petitioner seeks setting aside the orders dated 08.12.2022 & 06.01.2023 (Annexures P9 & P10, respectively) vide which the court below has granted anticipatory bail in case FIR No.513 dated 02.12.2022 under Sections 12(1) & 12(5) of the Haryana Prevention of Unlawful Conversion of Religion Act, 2022, registered at Police Station SGM Nagar, Faridabad.

Learned counsel for the petitioner submits that his elder daughter namely, Sanskriti Shukla had solemnized marriage with one Javed Khan after conversion of her religion from Hindu to Muslim which is not in accordance with the Haryana Prevention of Unlawful Conversion of Religion Act, 2022

(in short, the Act). It is alleged that the private respondents and other co-accused have connived and forced her daughter to convert her to Muslim, illegally. It is contended that after performing marriage, daughter of the petitioner and Javed Khan filed protection petition on 28.10.2022 and the trial court issued notice on 28.10.2022. The petitioner filed a complaint before the police and pursuant thereto, a formal FIR No.513 dated 02.12.2022 was registered (Annexure P1).

It is urged that the petitioner has even filed a civil suit before Civil Judge (Sr. Divn.), Faridabad, seeking declaration of marriage/Nikahnama between the daughter of the petitioner and Javed Khan as null and void.

Heard learned counsel for the petitioner.

Both the petitioners are major and matured and have solemnized marriage on 28.10.2021 according to Muslim Rites and Ceremonies and had duly executed a Nikahnama in the presence of witnesses. Apprehending threat at the hands of petitioner, they had even filed a petition seeking protection of their life and liberty against them and others and the ld. Sessions Judge vide order dated 28.10.2022, had directed the Commissioner of Police provide security and protection to them as an interim measure.

The trial court observed that petitioner has already challenged the legality of the marriage between his daughter with Javed Khan before the Civil Court at Faridabad and the custodial interrogation of the accused – Sanskriti Shukla and Javed Khan is not required. The Court further observed that it is fairly settled in law that there should be prevention of harassment, humiliation and unjustified detention of an accused. Thus, considering facts

of this case in its totality, in the interest of justice, the trial court granted anticipatory bail to the accused persons which was confirmed vide order dated 06.01.2023.

The Supreme Court in **Bhuribai vs. State of Madhya Pradesh in criminal appeal No.1972 of 2022** elaborated the powers of the Court for cancellation of bail and held that it cannot be approached as in case of disciplinary proceedings against accused and such power of cancellation of bail should be exercised with extreme care and circumspection and the same cannot be ordered merely for any perceived indiscipline on part of accused before granting bail.

This Court is of the considered view that the petitioner has failed to highlight any cogent or overwhelming circumstances or grounds which is a *sine qua non* for seeking cancellation of bail. It is not the case of the petitioner that the respondent has misused the liberty or had comported themselves in any manner in violation of the conditions imposed on him. The power of cancellation of bail ought to be exercised with extreme care and circumspection; and such cancellation cannot be ordered merely for any perceived indiscipline on the part of the accused before granting bail. In other words, the powers of cancellation of bail cannot be approached as if of disciplinary proceedings against the accused and in fact, in a case where bail has already been granted, its upsetting under Section 439(2) CrPC is envisaged only in such cases where the liberty of the accused is going to be counteracting the requirements of a proper trial of the criminal case. In the matter of the present nature, in our view, over-expansion of the issue was not required only for one reason that economic offence is involved in the case.

In the light of the above discussion, this Court does not find any illegality in the orders passed by the trial court in granting anticipatory bail to the accused persons.

Dismissed.

06.02.2023

V.Vishal

- 1. *Whether speaking/reasoned?*
- 2. *Whether reportable?*

(Sandeep Moudgil)
Judge

Yes/No
Yes/No