

231 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-4199-2023

Date of Decision: 24.02.2023

DEEPAK KUMAR

..... Petitioner

Versus

STATE OF PUNJAB

..... Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Daljeet Singh Kahlon, Advocate
for the petitioner.

Mr. Digvijay Nagpal, AAG, Punjab
assisted by ASI Harjinder Singh.

JAGMOHAN BANSAL, J. (Oral)

On 27.01.2023 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. 0005 dated 5.1.2023, under Section 498-A of IPC, registered at Police Station City Gurdaspur .

Learned counsel for the petitioner inter alia contends that as per FIR, the petitioner has demanded motor cycle which is factually incorrect. The marriage of the petitioner was solemnized with complainant on 30.4.2015 and FIR has been registered on 5.1.2023. Under the pressure of complainant, the petitioner separated from his parents and shifted his business to Himachal Pradesh. In spite of these facts, the complainant left her matrimonial home on 7.5.2022. The petitioner has filed petition under Section 13(1)(ia) of the Hindu Marriage Act seeking divorce and present FIR is a counter blast to the aforesaid petition. The petitioner is ready to join investigation and face proceedings. There is no possibility

of flee from justice. The arrest would cause irreparable loss, mental agony, embarrassment and humiliation to petitioner as well entire family.

Notice of motion.

On the asking of Court, Mr. Amish Sharma, AAG, Punjab, who is present in court on advance notice, accepts notice on behalf of State-respondent.

*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 01.02.2023 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.

Adjourned to 24.2.2023.

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."

Learned counsel for the petitioner submits that petitioner has returned all the articles which were in his possession.

Learned State counsel submits that petitioner has already joined investigation and no custodial interrogation is required, however, there is partial recovery of dowry articles.

In view of the above, the petition is allowed and the interim protection granted to the petitioner vide order dated 27.01.2023 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
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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>