

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

220

CRM-M-4590-2023

Date of Decision: 25.05.2023

Amrinder Singh

...Petitioner

Versus

State of Punjab and Another

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. L.S. Sidhu, Advocate for the petitioner

Ms. Guramrit Kaur, DAG, Punjab
(assisted by ASI Muktiar Singh)

Ms. Shubreet Kaur, Advocate for the complainant

JAGMOHAN BANSAL, J. (ORAL)

1. On 06.02.2023, 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. 198 dated 16.12.2022, under Sections 498-A, 406, 323, 506 and 34 of IPC, registered at Police Station City Khanna, District Ludhiana.

Case of prosecution, as per FIR, is that complainant got married with petitioner on 18.11.2017. The petitioner as per complaint is an addict of liquor and intoxicants. He used to demand money and beat her. Sister-in-law of the complainant used to ask for dowry.

Learned counsel for the petitioner inter alia contends that petitioner solemnized marriage on 18.11.2017 and a son was born from this wedlock on

10.11.2018. The complainant left her matrimonial home in August' 2021 and came back within few days, however, she again left home on 12.9.2021. The complainant and her brother alongwith Harpal Singh on 16.8.2022 scaled wall of residence of petitioner and forcibly attempted to take away son of the petitioner from his lawful custody. The petitioner on 23.9.2022 has filed petition under Section 9 of Hindu Marriage Act, 1955 seeking restitution of conjugal rights. 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 09.02.2023 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 3.3.2023.

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.”

2. By order dated 03.03.2023 of this Court, the matter was referred to Mediation and Conciliation Centre of this Court.
3. Learned counsels for the parties are *ad idem* that matter has been amicably settled between the parties.
4. Learned counsel for the complainant submits that petitioner may be directed to cooperate in the filing of petition under Section 13-B of Hindu Marriage Act, 1955 (for short ‘HMA’) seeking divorce by mutual consent.
5. Learned counsel for the petitioner submits that divorce petition under Section 13-B of HMA would be filed within a week.

6. Learned State counsel, on instructions from ASI Muktiar Singh, submits that petitioner has joined investigation and no custodial interrogation is required.
7. In view of above facts and circumstances, the petition is allowed and the interim bail granted to the petitioner vide order dated 06.02.2023 is made absolute subject to the conditions envisaged under Section 438(2) of Cr.P.C.
8. 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.
9. 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

25.05.2023

Mohit Kumar

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