

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

102+129

CRM-M-6045-2023

Date of Decision : 27.03.2023

Gurpreet Kaur

..... Petitioner

Versus

State of Haryana

..... Respondent

2.

CRM-M-7345-2023

Gurpreet Kaur

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Ms.Jasneet Mehra, Advocate for
Ms.Kiran Bala Jain, Advocate
for the petitioner.

Ms. Dimple Jain, AAG, Haryana.

JAGMOHAN BANSAL, J. (Oral)

By this common order, CRM-M-6045-2023 and CRM-M-7345-2023 are disposed of because both are interconnected and arising out of common cause of action. For the sake of brevity and convenience, the facts are borrowed from CRM-M-6045-2023.

The instant petition has been filed under Section 482 Cr.P.C., seeking quashing FIR No. 0678 dated 03.12.2022, registered under Section 174-A IPC, at Police Station Ambala City, District

Ambala, (Annexure P-7) and all the consequent proceedings arising therefrom.

The brief facts emerging from the record and necessary for the adjudication of the present petition are that petitioner is wife of brother of husband of the complainant who lodged FIR No.22 dated 15.01.2014 under Sections 406, 420, 498-A and 506 of IPC against her husband and other family members including the petitioner. The petitioner was arrested and thereafter produced before the trial Court. Learned CJM, Ambala vide order dated 19.02.2014 considering the fact that the petitioner is mother of a 04 years old daughter who is mentally and physically abnormal, ordered to release the petitioner on bail. The petitioner in order to get treatment of her daughter left for Canada on 21.03.2016. On account of non-appearance of petitioner, the trial Court vide impugned order dated 12.10.2017 declared the petitioner as proclaimed person. The bail bonds of the petitioner came to be cancelled. An FIR No.678 dated 03.12.2022 under Section 174-A IPC came to be registered against the petitioner.

The petitioner came to India in 2022 and came to know that she has been declared proclaimed person as well as an FIR under Section 174-A IPC has been registered against her. She moved an application seeking anticipatory bail in FIR No.678 dated 03.12.2022 registered under Section 174-A IPC at Police Station Ambala City, District Ambala.

Learned counsel for the petitioner *inter alia* contends that on

account of illness of her daughter, the petitioner had gone to Canada and she remained there for 06 years because her daughter was under treatment. The daughter is still under treatment, however she had come to India to get her treated in India. The Sessions Court while dismissing her bail application has categorically noticed that daughter of the petitioner is an abnormal child and she is under treatment, however, bail application has been dismissed. The petitioner had left for Canada on account of reasons beyond her control and she could not come back on account of illness of her daughter. There was no intention to avoid the proceedings which is evident from the fact that she at her own accord came back to India and wants to join proceedings. She has strong prima facie case because she is wife of brother of husband of the complainant and she has been wrongly roped in the FIR registered under Sections 498-A and 406 of IPC. The petitioner is ready to pay costs of Rs.25,000/-.

Learned State counsel submits that the petitioner had remained out of country for 06 years and her act and conduct does not warrant leniency on the part of Court. She had left country without seeking approval which has resulted into delay of trial. On being asked, learned State counsel submits that trial qua other accused is pending before trial Court and it is fixed for prosecution evidence. The next date before the trial Court is 06.04.2023.

I have heard arguments of both sides and perused the record.

From the perusal of order dated 29.11.2021 passed by

Additional Sessions Judge, Ambala, it is quite evident that the Sessions Court while dismissing bail application has categorically recorded finding that daughter of the petitioner who is now 16 years old is suffering from Cerebaral Palsy and Epilepsy. The findings recorded by trial Court read as :

“This court has gone through the medical record submitted from the side of applicant/accused which shows that daughter of applicant/accused, who is now of 12 years was suffering from Cerebral Palsy and Epilepsy. Further record would show that daughter of applicant/accused was under continuous treatment at Canada for her ailment i.e. Cerebral Palsy and Epilepsy etc., she is dependent on her family members for support, she still is under continuous observation and treatment of the doctors and as of now, she is admitted in child hospital for her ailment. Furthermore though the photographs placed upon record and videos played by the counsel would also give certain idea about the physical condition of the daughter of the applicant/accused which cannot at all be said to be normal, and which infact is bad, but the question is whether in view of said facts and circumstances, the act of applicant/accused in leaving India for abroad (Canada) without seeking permission of the court and remaining absent from court proceedings for more than six years can be condoned.”

Right of personal liberty granted by Article 21 of the Constitution of India is one of the most pious and important fundamental right guaranteed by our Constitution. Arrest not only deprives right of personal liberty but also causes mental agony, stress and tarnish reputation of entire family.

Keeping in mind:

1. The object of cancellation of bond or declaration of anyone as proclaimed offender/person is to secure her presence. The petitioner has come forward to face trial and undertakes to appear before trial court on each and every date, thus, her presence would meet ends of justice;
2. The Petitioner for wasting valuable time and energy of courts as well prosecution is willing to pay costs of Rs. 25,000/-;
3. The Petitioner is not involved in any other offence;
4. Matter is pending since 2017 and petitioner is ready to face trial, thus, no prejudice is going to cause to prosecution or complainant;
5. The petitioner has joined investigation, she was initially arrested and released on bail;
6. Daughter of petitioner is physically and mentally ill and she needs care of her mother i.e. petitioner;
7. The petitioner is *jethani* of complainant and she is not

prime accused in main case;

this court is of the considered opinion that present petitions need to be allowed, and accordingly allowed. FIR No. 0678 dated 03.12.2022, registered under Section 174-A IPC, at Police Station Ambala City, District Ambala, (Annexure P-7) and all other consequential proceedings arising therefrom are quashed *qua* the petitioner and order dated 12.10.2017 (Annexure P-5) is set aside. The petitioner is directed to appear before trial Court on 06.04.2023 and on her doing so, trial Court would release her on bail subject to furnishing of bail bonds and payment of costs of Rs.25,000/-, as agreed, to be deposited with the PGI, Poor Patient Welfare Fund, Chandigarh.

(JAGMOHAN BANSAL)
JUDGE

27.03.2023
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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>