

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

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CRM-M-6397-2023

Date of Decision: 27.02.2023

Vikas Kumar

...Petitioner

Versus

State of Punjab and Another

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Naresh Chander, Advocate for the petitioner

Mr. Amish Sharma, AAG, Punjab

Ms. Rhytem Bajaj, Advocate for the complainant

JAGMOHAN BANSAL, J. (ORAL)

On 07.02.2023, 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. 05 dated 15.1.2023, under Sections 406, 498-A, 506, 182 and 120-B IPC and Section 4 of The Dowry Prohibition Act, 1961, registered at Police Station Bahawala District Fazilka.

Case of the prosecution is that marriage of the petitioner was solemnized with complainant on 21.1.2010 and a son was born from this wedlock who at present is more than 10 years old. The complainant lodged FIR alleging that at the time of marriage, cash amounting to Rs. 6 lakh, 20 tolas of gold ornaments and a motor cycle was entrusted to in-laws family of the complainant. At the time of birth of the child, the parents of complainant had further spent a sum of Rs. 1,00,000/-. The petitioner and his family members since the date of marriage were taunting for bringing less dowry articles. The complainant was thrown out of the house on 14.8.2022 after giving beating.

Learned counsel for the petitioner inter alia contends that marriage was solemnized on 21.1.2010 and FIR came to be registered on 15.1.2023. The sister and mother of the petitioner who are co-accused, have already been granted concession of anticipatory bail

by Additional Sessions Judge, Fazilka. 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.

Mr. Rhythen Bajaj, Advocate, filed Power of Attorney on behalf of respondent No. 2-complainant. The same is taken on record. Registry is directed to tag the same at an appropriate place.

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 and the fact that co-accused have already been granted concession of interim anticipatory bail, at the first instance, the petitioner is directed to appear before investigation officer on 13.02.2023 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 27.2.2023.

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 State counsel submits that petitioner has joined investigation, however, few articles are yet to be recovered.

The marriage was solemnized on 21.01.2010 i.e. 13 years back. Bail cannot be denied on the ground of partial recovery of alleged dowry articles.

In view of the above, the petition is allowed and the interim bail granted to the petitioner vide order dated 07.02.2023 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

27.02.2023

Mohit Kumar

Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*