

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

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CRM-M-7232-2023

Date of Decision: 16.03.2023

Ashish Arora

...Petitioner

Versus

State of Haryana and Another

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Ms. Sapna Seth, Advocate for the petitioner

Ms. Dimple Jain, AAG, Haryana
(assisted by ASI Mukesh)

JAGMOHAN BANSAL, J. (ORAL)

On 10.02.2023, 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. 0749 dated 26.11.2022, under Sections 323, 406 and 498-A IPC, registered at Police Station Gharaunda, Panipat, Haryana.

The case of prosecution is that marriage of the complainant was solemnized with petitioner on 06.12.2014. It was second marriage of both the parties. The first wife of the petitioner had passed away due to blood cancer. The petitioner was having two kids from his first marriage. The complainant got divorce from her first husband and as per decree of divorce, the children were handed over to first husband. At the time of marriage, the petitioner demanded a sum of Rs. 3.5 lakh which was transferred in the bank account of the petitioner. At the time of marriage gold articles were handed over to

mother-in-law Usha Rani. The parents of the petitioner have snatched gold articles of the complainant and they are harassing the complainant.

Learned counsel for the petitioner inter alia contends that it was second marriage of both the parties, thus, there was no question of demand of dowry. Father of the petitioner has purchased a flat in the joint names of petitioner and complainant. The car in question which is bone of dispute between the parties was purchased by the petitioner and he is paying the instalments. He is ready to hand over car to the complainant subject to payment of EMI by the complainant. The complainant is in the habit of creating scenes. She filed similar complaint against her first husband. The complainant in the year 2019 filed complaint against the petitioner which, on investigation, was found false. On 02.07.2019, the petitioner had to call police to enter his house because complainant bolted house from inside and did not permit the petitioner to enter. The complainant was threatening the petitioner that she would implicate him in a rape case of her daughter. The complainant had brought her daughter and threw both the kids of petitioner out of house. The children are staying with their grand parents. The petitioner filed civil suit against the complainant which was withdrawn at the request of complainant. 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, Ms. Dimple Jain, AAG, Haryana, 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 15.02.2023 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 16.03.2023.

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 joined investigation and he has handed over car bearing Registration No.HR-06-AB-0083 to the Investigating Officer and complainant has moved an application before the Trial Court seeking release of car on *superdari*.

Learned State counsel, on instructions from ASI Mukesh, submits that petitioner has joined investigation and no custodial interrogation is required.

In view of the above, the petition is allowed and the interim bail granted to the petitioner vide order dated 10.02.2023 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

16.03.2023
Mohit Kumar

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