

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

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CRM-M-6761-2023

Date of Decision: 16.03.2023

Makahhan Singh Alias Makhan Singh**...Petitioner****Versus****State of Punjab and Another****...Respondents****CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present:- Mr. Munish Puri, Advocate for the petitioner

Mr. Amish Sharma, AAG, Punjab
(assisted by ASI Baldev Singh)

JAGMOHAN BANSAL, J. (ORAL)

On 08.02.2023, 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. 2 dated 7.1.2023, under Sections 498-A and 406 IPC, registered at Police Station Shahpur Kandi District Pathankot.

Case of prosecution is that Aarti Devi daughter of Subhash lodged a complaint to SSP, Pathankot alleging that her marriage was solemnized with Makhan Singh on 6.2.2019 as per Hindu rites. Her parents gave sufficient dowry at the time of marriage. A son was born out of this wedlock. The husband and other family members after marriage started harassing and taunting her on the pretext that her parents had given lesser amount of dowry. They used to demand Alto car. Her mother-in-law and sister-in-law used to taunt her that child was born out of her illicit

relations and her husband is having illicit relation with one lady namely Baggu. The husband and other family members had snatched her son and thrown her out of home after giving merciless beating.

Learned counsel for the petitioner inter alia contends that complainant on the earlier occasion lodged identical complaint against the petitioner and other family members. The petitioner is working with Border Security Force. The complainant is having illicit relation with one Harpreet Singh @ Harry. The police on the earlier complaint conducted investigation and found that it is the complainant who is demanding a sum of Rs. 5 lakh. The petitioner has filed divorce petition under Section 13 of Hindu Marriage Act. The allegations of demand of dowry have been found to be false in the earlier enquiry still present FIR has been registered against the petitioner. The petitioner is not involved in any other case. 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 or before 1.3.2023 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 16.3.2023.

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.”

Learned State counsel, on instructions from ASI Baldev Singh, 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 08.02.2023 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>