

CRM-M-8729-2023

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2023:PHHC:101895

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
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CRM-M-8729-2023

Date of Decision: 07.08.2023

Gurjant Singh

.... Petitioner

Versus

State of Punjab and another

.... Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Narinder Sharma, Advocate for the petitioner.

Mr. Aditya Kapoor, AAG, Punjab.

Mr. H.S. Batth, Advocate for the complainant.

NIDHI GUPTA, J. (ORAL)

The petitioner is seeking anticipatory bail in case FIR No. 03 dated 24.01.2023 registered under Sections 323, 498-A and 406 IPC at Police Station Sadar Morinda, District Rupnagar.

On 20.02.2023, this Court had passed the following order:-

“Through instant petition under Section 438 of Code of Criminal Procedure, 1973, the petitioner is seeking anticipatory bail in FIR No. 03 dated 24.01.2023, under Sections 323, 498-A read with Section 406 IPC, registered at Police Station Sadar Morinda, District Rupnagar.

The case of prosecution is that Sumandeep Kaur lodged a complaint with police averring that on 09.02.2014 her marriage was solemnized with Gurjant Singh according to Sikh rites and rituals. Her parents spent Rs.24-25 lakhs on her marriage. Two children were born from this wedlock. Her in-laws were harassing her for not bringing a

big car. They used to beat her. Panchayats were convened. On 28.07.2022, her brother alongwith her uncle came to her in-laws house. She was turned out of the matrimonial home.

Learned counsel for the petitioner inter alia contends that there is no specific allegation of entrustment of dowry articles. The petitioner prior to registration of FIR joined enquiry conducted by police authorities. The marriage was solemnized on 09.02.2014 whereas FIR came to be registered after expiry the of almost nine years. The complainant has already taken away all gold jewellery, thus, nothing is to be recovered from the petitioner. It is a case of temperamental dispute between the parties and there is no harassment on account of dowry on the part of the petitioner. 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.

*Having considered contents of the FIR, role attributed to the petitioner, gravity of offence, sentence prescribed for commission of alleged offence, arguments put forth by the petitioner and 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, this Court is of the prima facie opinion that petitioner deserves protection from arrest. Accordingly, at the first instance, the petitioner is directed to appear before investigating officer on 22.02.2023 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 17.03.2023.

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 in compliance of the aforesaid order, the petitioner has joined the investigation and is co-operating with the investigating agency. Learned counsel for the petitioner further submits that marriage between the parties was solemnized on 09.02.2014 and they are living separately since, September, 2022. Two children were born out of the said wedlock, who are in the care and custody of the petitioner.

Learned State counsel, on instructions from ASI Pardeep Kumar, states that in terms of the order passed by this Court, reproduced above, the petitioner has joined the investigation.

On the other hand, learned counsel for the complainant

submits that though the petitioner has joined the investigation and partial recovery has been effected from him. However, gold ornaments are yet to be recovered from him.

I have heard learned counsel for the parties.

Hon'ble the Supreme Court in **Bimla Tiwari vs. State of Bihar and others, Law Finder Doc ID # 2110551**, has held that "matter of grant of bail is not akin to money recovery proceedings".

In view of the above, the order dated 20.02.2023 granting interim bail to the petitioner is made absolute.

However, the petitioner shall abide by the conditions stipulated under Section 438(2) Cr.P.C. He shall also join the investigation and co-operate with the investigating agency in case he is required for the same in future as and when called upon to do so.

In case, at any given point of time hereinafter, it is felt by the investigating agency that the petitioner is required for the investigation but is not cooperating, they will be at liberty to approach this Court for passing appropriate orders.

The petition stands disposed of.

07.08.2023
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(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No