

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

209

CRM-M-8861-2023 (O&M)

Date of Decision: 08.11.2023

SITA RAM & ANR.

.... Petitioners

VERSUS

STATE OF PUNJAB

.... Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Amandeep Saini, Advocate for the petitioners.

Mr. M.S. Tiwana, AAG Punjab.

Mr. Ramneek Vasudeva, Advocate for the complainant.

ALKA SARIN, J. (ORAL)

1. This is a petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail to the petitioner in FIR No.79 dated 20.06.2021 under Sections 323, 498-A of the Indian Penal Code, 1860, registered at Police Station Anandpur Sahib, District Rupnagar.

2. On 20.02.2023 the following order was passed :

“Through instant petition under Section 438 of Code of Criminal Procedure, 1973, the petitioners are seeking anticipatory bail in FIR No.79 dated 20.06.2021, under Sections 323 and 498-A IPC, registered at Police Station Anandpur Sahib, District Rupnagar.

The case of prosecution is that Sita Devi lodged complaint with police alleging that on 17.06.2021, her

husband Sita Ram came and told her that you are telephonically calling to a stranger, upon which she replied that she does not have any phone, then he started beating her. Her husband and mother-in-law caused internal injuries to her. They caused injuries on her private parts by means of hot iron. They are troubling her for the last four months. They used to beat her because she has relation with one Jarnail Singh.

Learned counsel for the petitioner inter alia contends that police conducted investigation and as per reply under RTI, police has prepared cancellation report, however, it has not been approved till date. The wife of the petitioner was having illicit relation with one person namely Jarnail Singh and she has also accepted this fact in FIR. One video of the complainant and Jarnail Singh was made viral on social media while the petitioner No. 1 was in Madhya Pradesh for the purpose of earning livelihood. The petitioner lodged FIR against Jarnail Singh, however, complainant has turned hostile in the trial against Jarnail Singh. The complainant in spite of these facts has lodged FIR against the petitioners. The police has found the petitioners innocent. The petitioners are 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.

Learned State counsel, on instructions from ASI Raj Kumar, submits that investigating officer indubitably had prepared cancellation report, however, it has not been accepted by the senior officers. He further submits that factually it is correct that video of complainant and Jarnail Singh was made viral on social media and further investigation qua these facts is going on.

Having considered contents of the FIR, role attributed to the petitioners, gravity of offence, sentence prescribed for commission of alleged offence, arguments put forth by the petitioners 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 petitioners deserve protection from arrest. Accordingly, at the first instance, the petitioners are directed to appear before investigating officer on 22.02.2023 and thereafter as directed by IO. In the event of arrest, the petitioners shall be admitted to interim bail on furnishing of bail/surety bonds to the satisfaction of investigating/arresting officer. The petitioners shall co-operate the investigating officer.

If the arresting officer does not permit the petitioners to join the investigation, the petitioners would appear before the learned Illaqa Magistrate who would then summon the arresting officer and direct him to join the petitioners 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.”

3. Learned counsel for the petitioners would contend that pursuant to the said order the petitioners have joined investigation and have fully cooperated.

4. Learned counsel for the State, on instructions from ASI Angrej

Singh, has stated that the petitioners have since joined investigation and have fully cooperated and that they are no longer required for further custodial interrogation as of now.

5. In view of the above, the order dated 20.02.2023 is made absolute. The petitioners shall, however, join investigation as and when called. The petitioners shall also abide by all the terms and conditions as specified under Section 438(2) of the Code of Criminal Procedure, 1973.

6. Disposed off accordingly. Pending applications, if any, also stand disposed off.

08.11.2023

Aman Jain

(ALKA SARIN)

JUDGE

NOTE:

Whether speaking/non-speaking: Speaking

Whether reportable: YES/NO