

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

207

CRM-M-9274-2023

Date of Decision: 11.05.2023

Gaurav

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Jatinder Kumar, Advocate for
Mr. Abhinav Gupta, Advocate for the petitioner
Ms. Priyanka Sadar, AAG, Haryana

JAGMOHAN BANSAL, J. (ORAL)

1. On 22.02.2023, the following order was passed:-

“Through instant petition under Section 438 of Code of Criminal Procedure, 1973, the petitioner is seeking anticipatory bail in FIR No. 05 dated 08.01.2023, under Sections 34, 354-A, 354-B, 377, 406, 498-A and 506 IPC (Sections 354-A, 354-B IPC deleted later on), registered at Police Station Rewari City, District Rewari, Haryana.

The case of prosecution is that marriage of the complainant was solemnized with petitioner on 01.12.2017 according to Hindu rites and rituals. The petitioner and his parents demanded luxury car and gold articles. The parents of the complainant-wife of the petitioner spent Rs. 25 lakh at the time of marriage. They further gave a sum of Rs. 5 lakh in cash for a car. A daughter was born from this wedlock on 28.12.2018 and at that point of time jewellery items were given. The petitioner is addicted to alcohol and used to have

unnatural sex with the complainant. The father-in-law had an evil eye on the complainant and he tried to commit sexual assault on her on 01.07.2020. The husband tendered apology for his mistake, however, the things did not improve. FIR was registered under different Sections of IPC apart from Sections 354-A, 354-B IPC. The police conducted investigation and Sections 354-A, 354-B IPC were deleted and sister-in-law of the complainant was found innocent.

Learned counsel for the petitioner inter alia contends that petitioner is a State Government employee. The parents of the petitioner have already been granted concession of anticipatory bail by Sessions Court. Partial complaint of the complainant has been found false which indicates conduct of the complainant. The marriage was solemnized on 01.12.2017 whereas FIR came to be registered on 08.01.2023. The complainant had filed complaint on 05.01.2023 and within three days FIR came to be registered without making proper enquiry and considering stand of the petitioner and his family members. Arrest of the petitioner would spoil his career and he may lose his job. 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.

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 and the fact that co-accused have already been granted concession of anticipatory bail, 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 24.02.2023 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 24.03.2023.

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.”

2. By order dated 24.03.2023 of this Court, the petitioner was directed to re-join investigation.

3. Learned State counsel submits that petitioner has joined investigation and no custodial interrogation is required.

4. In view of above facts and circumstances, the petition is allowed and the interim bail granted to the petitioner vide order dated 22.02.2023 is made absolute subject to the conditions envisaged under Section 438(2) of Cr.P.C.

5. 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.

6. 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

11.05.2023
Mohit Kumar

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