

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

210

CRM-M-9883-2023

Date of Decision: 27.03.2023

Gurwinder Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Raman Mohinder, Advocate for the petitioner

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

JAGMOHAN BANSAL, J. (ORAL)

On 24.02.2023, 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.0010 dated 10.01.2023, under Sections 498-A, 406, 323 and 34 IPC, registered at Police Station City 1 Abohar, District Fazilka.

The case of prosecution is that marriage of the petitioner was solemnized with complainant on 21.11.2021 at village Ojhanwali, Tehsil and District Fazilka according to Sikh rites and rituals. The petitioner and his family members after marriage started harassing the complainant on account of demand of Bullet motorcycle. The complainant on 12.11.2022 was beaten up by the petitioner and other

family members on account of demand of Bullet motorcycle. The complainant was got admitted in Civil Hospital, Fazilka where she was medico legally examined and given treatment.

Learned counsel for the petitioner inter alia contends that petitioner is working as Lance Naik with Indian Army. The marriage of the petitioner with complainant was a very simple marriage. The mother of the petitioner passed away when he was 11 years old. Being in Indian Army, the petitioner gets opportunity to come home after 4-5 months and he stays at his home for 3-4 weeks at one stretch of time. It is a case of misunderstanding between complainant and wife of elder brother (Jethani) of the petitioner. The complainant was insisting to stay with the petitioner at his work place i.e. Shahjanpur (UP) which is not possible on account of lack of accommodation. On 10.11.2022, the complainant reached at Shahjanpur and created scene in the presence of other officials. The petitioner alongwith the complainant came back to his home town on 11.11.2022. The complainant bolted the room from inside and petitioner has to break upon the window of the room. On 12.11.2022 she disclosed the petitioner that she has consumed poison. The petitioner alongwith his family members got her admitted in hospital where doctor opined that she has not consumed poison, however, parents of the complainant, who reached later on, insisted the doctor to prepare a report disclosing that she has consumed poison. The petitioner after getting fed up with the

behaviour of the complainant has filed petition under Section 13 of the Hindu Marriage Act seeking divorce. As a counter blast, complainant has lodged the present FIR. 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.

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, official position of 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 25.02.2023 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 27.03.2023.

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

In view of the above facts and circumstances, the petition is allowed and the interim bail granted to the petitioner vide order dated 24.02.2023 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

27.03.2023
Mohit Kumar

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