

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

219

CRM-M-10863-2023

Date of Decision: 17.04.2023

Amit Kumar

...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

Mr. Akashdeep Miglani, Advocate for the complainant

JAGMOHAN BANSAL, J. (ORAL)

1. Mr. Akashdeep Miglani, Advocate appeared and filed his

Power of Attorney on behalf of the complainant. The same is taken on record. Registry is directed to tag at an appropriate place.

2. Status report by way of affidavit dated 17.04.2023 of Azad Davinder Singh, P.P.S., Deputy Superintendent of Police (Rural), Abohar, District Fazilka filed on behalf of respondent-State is taken on record. Registry is directed to tag the same at appropriate place.

3. On 02.03.2023, 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. 0009 dated 11.2.2023, under Sections 406 and 498-A IPC, registered at Police Station Sadar Abohar, District Fazilka.

The case of prosecution is that marriage of the petitioner was solemnized with complainant-Priya on 22.02.2019. A child was born from this wedlock. The parents of the complainant gave dowry articles at the time of marriage and further incurred expenses as per their financial capacity. The petitioner and his family members after 10-15 days of marriage started harassing the complainant on the pretext of bringing less dowry. In March 2019, the complainant got pregnant and her in-laws did not provide appropriate medical treatment. She was beaten up by her husband and other relatives.

Learned counsel for the petitioner inter alia contends that it is complainant who is harassing the petitioner and his family members. A compromise dated 12.02.2020 was executed between family of petitioner and family of complainant. The complainant and her father were part of the compromise deed wherein it was specifically jotted down that there is no demand of dowry. The police on the complaint of complainant conducted an enquiry and prepared report dated 10.09.2022 wherein it was found that there is domestic dispute between the parties and matter falls within jurisdiction of Hon'ble Court. The police in spite of these important documents has registered FIR against the petitioner. The petitioner has filed divorce petition dated 02.09.2022 before Family Court which is pending. The petitioner is ready to join investigation and face proceedings. The petitioner is not involved in any other offence.

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 05.03.2023 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 17.04.2023.

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.”

4. Learned counsel for the complainant submits that complainant needs immediate financial assistance for her survival and to save her from destitution.

5. Learned counsel for the petitioner, on instructions from his client, submits that petitioner is ready to pay a sum of Rs.50,000/- by way of demand draft to the complainant within 3 weeks from today.

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

7. In view of the above facts and circumstances, the petition is allowed and the interim bail granted to the petitioner vide order dated 02.03.2023 is made absolute subject to the conditions envisaged under Section 438(2) of Cr.P.C.

It is made clear that if the petitioner does not pay Rs.50,000/- within 3 weeks from today to the complainant, she shall be at liberty to move an appropriate application.

8. 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

17.04.2023
Mohit Kumar

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