

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

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CRM-M-12754-2023

Date of Decision: 18.04.2023

Darshan Kumar Sharma

...Petitioner

Versus

State of Punjab and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. H.S. Dhindsa, Advocate for the petitioner

Mr. Amish Sharma, AAG, Punjab
(assisted by ASI Bodh Raj)

JAGMOHAN BANSAL, J. (ORAL)

1. On 15.03.2023, 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. 9 dated 10.02.2023, under Section 498-A of IPC, registered at Police Station, Shahpur Kandi, District Pathankot.

The case of prosecution is that one Ram Sarup moved a complaint to SSP, Pathankot alleging that his daughter Rama Khajuria was married to Darshan Kumar Sharma on 21.10.2020. On marriage he spent money as per his capacity. The in-laws of his daughter after marriage started demanding more dowry and taunting her for bringing less dowry. His daughter got pregnant and her in-laws did not care of her. The brother-in-law (Jija) of Darshan Kumar Sharma is an advocate and he is giving wrong advice to in-laws family of his daughter and instigating the petitioner to take divorce from his daughter. His daughter went to

her husband at Baddi in Himachal Pradesh where her husband gave beating to her and turned her out from the house and his daughter made a complaint to police station Indora regarding harassment given by her in-laws. They were called in police station Indora and made to understand to keep his daughter but all in vain. He (complainant) is taking care of his daughter and her child.

Learned counsel for the petitioner inter alia contends that allegations made in the FIR are patently false and concocted. Father of the petitioner has transferred a sum of Rs. 96,000/- in the account of wife of the petitioner. The petitioner had from time to time transferred money in the account of his wife. The marriage of the petitioner was solemnized with daughter of the complainant during Covid-19, thus, there was no exchange of gifts. The petitioner is regularly sending money to his wife for her and their child. Father of the petitioner on one occasion filed complaint against wife of the petitioner, however, matter was compromised. The petitioner after getting fed up with the behaviour of his wife has filed petition under Section 13 of Hindu Marriage Act seeking divorce. 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 21.03.2023 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 18.04.2023.

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..”

2. Learned State counsel, on instructions from ASI Bodh Raj, submits that petitioner has joined investigation and no custodial interrogation is required.

3. In view of the above facts and circumstances, the petition is allowed and the interim bail granted to the petitioner vide order dated 15.03.2023 is made absolute subject to the conditions envisaged under Section 438(2) of Cr.P.C.

4. 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

18.04.2023
Mohit Kumar

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