

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

212

CRM-M-13114-2023

Date of Decision: 25.04.2023

Junes Masih

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Nitesh Singhi, Advocate for the petitioner

Mr. Vipin Pal Yadav, Addl. AG, Punjab

JAGMOHAN BANSAL, J. (ORAL)

1. On 16.03.2023, 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. 0022 dated 02.02.2023, under Sections 406 and 498-A of IPC and Section 4 of Dowry Prohibition Act, registered at Police Station City Fazilka, District Fazilka.

The case of prosecution is that complainant lodged complaint with SSP, Fazilka alleging that her marriage was solemnized with petitioner on 3.6.2013 and out of this wedlock two children were born. The petitioner was addicted to liquor. The sister of the petitioner used to interfere in their matrimonial life. The petitioner, on account of being drugs addict, used to ask for money from her. At the time of marriage, gold ornaments weighing 08 tolas were given to the petitioner as Istridhan which he has misappropriated. The petitioner from March' 2017 to September' 2019

harassed the complainant on the ground of bringing less dowry. He was demanding divorce on the pretext that he wanted to settle in USA. On 19.9.2019, she after giving beatings was expelled from matrimonial home alongwith her child.

Learned counsel for the petitioner inter alia contends that mother of the petitioner is residing abroad since long and petitioner on account of work usually remains out of home. The sister of the petitioner is married lady and she has no interference in the affairs of the petitioner. All the gold articles since marriage are in the custody of the complainant because she was the only lady who stays at home. The marriage was solemnized on 3.6.2013 whereas FIR has been registered after 10 years. The complainant was with the petitioner till 22.9.2022. 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, 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 23.03.2023 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 25.04.2023.

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 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

16.03.2023 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

25.04.2023
Mohit Kumar

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