

2023:PHHC:106168

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

CRM-M-16120-2022

Date of Decision: 17.08.2023

RAFI MOHAMMAD

... PETITIONER

VS.

STATE OF PUNJAB

.. RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present : Mr. Sameydeen, Advocate for
Mr. G.N.Malik, Advocate
for the petitioner.

Ms. Ruchika Sabherwal, DAG, Punjab.

Mr. S.S.Sarwara, Advocate
for the complainant.

VIVEK PURI, J.(ORAL)

1. On 21.04.2022, the following order was passed by the
Coordinate Bench of this Court:-

“Petitioner has approached this Court praying for
grant of anticipatory bail in case FIR No.4 dated
10.02.2022, under Section 498-A of the Indian Penal
Code, registered at Police Station Women Cell, Patiala,
District Patiala.

It has been contended by counsel for the petitioner
that the petitioner and the complainant were in
relationship since 2013. He submits that the complainant
is the relative of the petitioner and she was very much
aware of the first marriage of the petitioner. He further
submits that after performing Nikah on 03.09.2021, both
of them approached this court praying for grant of
protection to their life and liberty by way of filing CRWP
No.9091 of 2021 which was disposed of by this Court
vide order dated 22.09.2021. He submits that perusal of
the order shows that it was duly recorded that petitioner

No.1 was already married and he had taken consent of the first wife-Sara Badan. He submits that there was no concealment on the part of the petitioner regarding his first marriage. He further submits that petitioner since beginning is ready to settle the dispute amicably and even now, he is ready to settle the dispute amicably with the complainant-wife if the same is referred to the Mediation Centre.

Notice of motion.

On asking of the Court, Mr. Rakeshinder Singh Sidhu, AAG, Punjab accepts notice on behalf of respondent-State and Mr. Simranjeet Singh, Advocate accepts notice on behalf of the complainant.

Learned counsel for the complainant also endorsed the suggestion made by counsel for the petitioner for referring the matter to Mediation Centre.

As learned counsel for the parties are ad idem that the parties be referred to the Mediation and Conciliation Centre of this Court, the parties are directed to appear before the Mediation and Conciliation Centre of this Court on 09.05.2022. Petitioner is directed to pay Rs.10,000/- to the respondent-wife on her first appearance before the Mediation Centre.

To enable him to appear before the Mediation Centre, the Court directs that no coercive action be taken against the petitioner till the next date of hearing.

List on 07.07.2022.”

2. Subsequently, on 24.11.2022, the following order was passed by the Coordinate Bench of this Court:-

“Learned counsel for the petitioner submits that in pursuance to order dated 21.04.2022, both the parties appeared before the Mediation Centre, however, the same remained unsuccessful.

Report of the Mediator has also been received

which would read that despite best efforts, the parties could not resolve their dispute amicably.

Learned counsel for the complainant further submits that there are still chances of amicable settlement.

Learned State counsel has submitted that as there was no order for joining investigation, the petitioner could not join investigation and the same is pending investigation.

In the attending facts and circumstances of the case, interim order dated 21.04.2022 is modified to the extent that in the event of arrest, the petitioner shall be released on interim bail subject to the satisfaction of the Arresting Officer/Investigating Officer. The petitioner shall join investigation before the Investigating Agency/Officer. He shall abide by the following conditions as envisaged under Section 438(2) Cr.P.C:-

1. That the petitioner shall make himself available for interrogation by a police officer as and when required to do so.

2. That the petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer.

3. That the petitioner shall not leave India without prior permission of the court.

List on 16.03.2023.”

3. As per the report received from the Mediation and Conciliation Centre the dispute has been amicably settled between the parties.

4. Learned counsel for the petitioner contends that the dispute has been amicably settled between the parties and in pursuance of interim directions issued by this Court, the petitioner has joined the investigation.

5. Learned counsel for the complainant has also admitted the fact of amicable settlement having been effected between the parties.
6. Learned State counsel, on instructions from H.C.Paramjit Singh, submits that in pursuance on interim directions issued by this Court, the petitioner has joined the investigation and his custodial interrogation is not required.
7. Keeping in view the entire circumstances, sufficient grounds are made out to extend the concession of pre-arrest bail to the petitioner. Accordingly, order dated 24.11.2022, vide which the petitioner has been granted interim bail, is made absolute.
8. Petition is allowed.

17.08.2023
smriti

(VIVEK PURI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No