

2023:PHHC:119727

204 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-18778-2023

Date of Decision: 12.09.2023.

ASHA RANI

... PETITIONER

VS.

STATE OF PUNJAB

.. RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present : Mr.Harshit Jain, Advocate, for the petitioner.
Ms. Ruchika Sabherwal, DAG, Punjab.

VIVEK PURI, J.(ORAL)

1. On 18.04.2023, the following order was passed by the Coordinate
Bench of this Court:-

“Through instant petition under Section 438 of Code of Criminal Code, 1973, the petitioner is seeking anticipatory bail in FIR No.0033 dated 11.03.2023 registered at Police Station Amargarh, District Malerkotla, under Sections 354, 323, 506, 147, 149 of Indian Penal Code, 1860.

Learned counsel for the petitioner inter alia contends that marriage of the complainant with brother-in-law (devar of the petitioner) was solemnised 13 years back and two children were born from this wedlock. The husband of the complainant had doubt about the character of the complainant, thus, he filed a divorce petition against the complainant. The complainant filed a petition seeking maintenance against her husband. As per complainant, on 09.03.2023 she came to her matrimonial house and she was given beatings by her husband and other family members. There is no allegation of outraging modesty against the petitioner and complainant on account of filing of divorce petition by her husband has lodged FIR against her husband as well as other family members. In any case, no offence is made out against the petitioner under Section 354 of IPC and other offences are bailable. The petitioner is not involved in any other offence. The petitioner is permanent resident of District Malerkotla and staying with his family members. The petitioner is ready to join investigation and face trial. 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. Case of the petitioner is squarely covered by decision of Hon'ble Supreme Court in *Ansar Mohammad Vs. The State of Rajasthan*.

Notice of motion returnable for 18.05.2023.

Mr. Amish Sharma, Asstt. A.G., Punjab, accepts notice on behalf of respondent-State.

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 the petitioner deserves protection from arrest. Accordingly, at the first instance, the petitioner is directed to appear before investigating officer on 21.04.2023 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."

2. As per the report, despite best efforts, the parties could not arrive at amicable settlement in the mediation proceedings.
3. Learned counsel for the petitioner contends that in pursuance of interim directions issued by this Court, the petitioner has joined the investigation.
4. Learned State counsel, on instructions from ASI Janpal Singh, has not disputed the aforesaid factual aspects and further submits that custodial interrogation of the petitioner is not required.
5. 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 18.04.2023, vide which the petitioner has been granted interim bail, is made absolute. This order is subject to the condition that the petitioner complies with the conditions as specified under Section 438 (2) Cr.P.C.
6. Petition is allowed.

12.09.2023.
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(VIVEK PURI)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No