

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

213

CRM-M-24282-2022

Date of Decision: 19.01.2023

Sumit Kumar

...Petitioner

Versus

State of Punjab

...Respondent

**CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present:- Mr. Vineet Sehgal, Advocate for the petitioner

Mr. Amish Sharma, AAG, Punjab  
(ASI Malkit Singh)

Mr. Inderjit Singh Luthra, Advocate for the complainant  
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**JAGMOHAN BANSAL, J. (Oral)**

On 30.05.2022, following order was passed:-

“ *Instant petition has been filed under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail in FIR No.0053 dated 09.04.2022, registered for offences under Sections 365, 376 and 420 of the Indian Penal Code, 1860 (for short “IPC”), at Police Station Jodhewal, District Ludhiana (Annexure P-1).*

*Counsel for the petitioner has placed reliance upon the Marriage Certificate dated 09.06.2021 (Annexure P-4), to submit that the petitioner had married the prosecutrix at a temple at Hamirpur. He submits that on coming to know of marriage, the family members of the prosecutrix reached their place at Hamirpur, physically assaulted them and FIR bearing No.0089 dated 10.06.2021 has been registered against them for offences under Sections 452, 363, 147, 149, 427 and 323, IPC, at Police Station*

*Sadar Hamirpur (Annexure P-9) at the instance of the petitioner.*

*Notice of motion.*

*On asking of the Court, Mr. A.S.Gill, Senior Deputy Advocate General, Punjab accepts notice on behalf of the respondent-State. He is assisted by Mr. Vinod Chaudhri, Advocate for the complainant, who has filed Power of Attorney, which is taken on record. Counsel for the complainant has disputed the veracity of the Marriage Certificate (Annexure P-4) and submits that it is a forged document. He has referred to a document from the temple to show that the marriage never took place*

*State counsel submits that authenticity of the documents relied upon by both the parties are required to be ascertained.*

*List on 29.07.2022.*

*State is directed to file a status report before the next date. In the meanwhile, arrest of the petitioner shall remain stayed till the next date.*

In compliance of afore-stated order, the petitioner has joined investigation and police authorities have verified genuineness of Marriage Certificate (Annexure P-4).

The State in its reply dated 29.07.2022 has categorically stated that two police officials visited Maa Jhanari Devi Temple, District Hamirpur, Himachal Pradesh and found that Marriage Certificate Annexure P-4 is genuine.

Learned counsel for the complainant vehemently opposed bail on the ground that Marriage Certificate is not genuine, however, he does not dispute the fact that an FIR No.89 dated 10.06.2021 under Sections 452, 363, 147, 149, 427 & 323 IPC at Police Station Sadar Hamirpur, was registered against the family members of the complainant alleging assault on the petitioner and his family members. He further does not dispute the fact that challan has been presented against family members of the complainant.

Mr. Amish Sharma, AAG, Punjab, learned State counsel on instructions from ASI Malkit Singh, submits that petitioner has joined investigation and no custodial interrogation is required.

Keeping in mind that petitioner has joined investigation, the police in its reply has stated that marriage certificate is genuine, both the parties i.e. petitioner and complainant are major and an FIR No.89 dated 10.06.2021 under Sections 452, 363, 147, 149, 427 & 323 IPC at Police Station Sadar Hamirpur, has been registered against family members of the complainant which culminated into police report under Section 173 Cr.P.C., the FIR against petitioner was registered on 09.04.2022 whereas FIR against family members of complainant was registered on 10.06.2021 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 finds that present petition deserves to be allowed and accordingly allowed. The interim bail granted to the petitioner vide order dated 30.05.2022 is made absolute subject to the conditions envisaged under Section 438(2) of Cr.P.C.

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.

This Court has not expressed any opinion qua genuineness of marriage certificate as well as marriage between the petitioner and complainant, thus, Trial Court as well as any other Court below shall pass order without being influenced by order of this Court, if any at stage, question arises qua genuineness of marriage certificate or marriage of the parties.

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**

**19.01.2023**

*Mohit Kumar*

*Whether speaking/reasoned*      *Yes/No*

*Whether reportable*      *Yes/No*