

CRM-M-24477-2023 (O&M)

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205 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-24477-2023 (O&M)
Date of decision : 29.11.2023

Baljit Kaur

...Petitioner

Versus

U.T., Chandigarh

...Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present : Mr. Ashok Giri, Advocate,
for the petitioner.

Mr. Shashank Bhandari, Addl. P.P., U.T., Chandigarh,
for the respondent.

None for the complainant.

MAHABIR SINGH SINDHU, J.

Petition under Section 438 of the Code of Criminal Procedure, 1973, has been filed for grant of pre-arrest bail to the petitioner in FIR No.87 dated 27.03.2023, under Sections 406 and 420 of the Indian Penal Code, 1860, registered at Police Station Sector-36, U.T., Chandigarh.

2. Above FIR was registered on the directions of learned Illaqa Magistrate, U.T., Chandigarh, under Section 156(3) Cr.P.C., in which allegations against the petitioner are that she in connivance with her husband had cheated complainant and committed fraud of Rs.18,00,000/- on the pretext of selling their property.

3. This Court, on 08.08.2023, granted interim bail to petitioner and relevant part of the same is recapitulated as under:-

“On joint request, posted on 29.08.2023.

The order dated 15.05.2023 is modified to the extent that petitioner shall join investigation before the Investigating Officer. In the event of his arrest, the Arresting Officer would admit him to interim bail, till the next date of hearing, on furnishing adequate bail and surety bonds to his satisfaction. The petitioner shall also abide by all the conditions as envisaged under Section 438(2) of Code of Criminal Procedure, 1973.”

4. On resumed hearing, on 05.10.2023, the following order was passed:-

“It transpires that petitioner is seeking pre-arrest bail in case bearing FIR No. 87 dated 27.03.2023 registered under Sections 406/420 of Indian Penal Code 1860, at Police Station Sector-36, U.T. Chandigarh and a Co-ordinate Bench on 15.05.2023, passed the following order:-

“The petitioner has filed the present petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail in case FIR No.87 dated 27.03.2023 registered under Sections 406 and 420 of the Indian Penal Code, 1860 at Police Station Sector-36, Chandigarh.

Learned counsel for the petitioner submits that out of total amount of Rs.18,00,000/-, amount of Rs.2,00,000/- has been paid to the complainant and there is possibility of amicable settlement between the parties. Therefore, the matter may be referred to the Mediation and Conciliation Center of this Court.

Notice of motion.

On the asking of the Court, Mr. Shashank Bhandari, Addl. Public Prosecutor, who is present in the Court, has accepted notice on behalf of respondent No.1-U.T. Chandigarh and seeks time to complete his instructions.

At this stage, Mr. Maninder Arora, Advocate has put in appearance on behalf of the complainant and filed his power of attorney in the Court which is taken on record.

Learned counsel for the complainant submits that he has no objection if the matter is referred for mediation.

In view of request made by learned counsel for the parties, the matter is referred to Mediation and Conciliation Center of this Court. Both the parties will appear before the Mediation and Conciliation Center of this Court on 29.05.2023 or any other date as convenient to the Mediator.

Report of the Mediator is awaited for 08.08.2023.

In the meanwhile, no coercive step shall be taken against the petitioner.”

2. *Thereafter, this Court on 08.08.2023, modified the interim relief to the following extent:*

“On joint request, posted on 29.08.2023.

The order dated 15.05.2023 is modified to the extent that petitioner shall join investigation before the Investigating Officer.

In the event of his arrest, the Arresting Officer would admit him to interim bail, till the next date of hearing, on furnishing adequate bail and surety bonds to his satisfaction. The petitioner shall also abide by all the conditions as envisaged under Section 438(2) of Code of Criminal Procedure, 1973.”

3. *Despite the directions issued in the aforesaid order, the petitioner has not come forward to join the investigation.*

4. *In view of the above, this Court was inclined to dismiss the present petition, but taking a lenient view in the matter, one more opportunity is granted to the petitioner for joining investigation before the Investigating Officer in terms of order dated 08.08.2023, subject to payment of costs of Rs. 10,000/-. Costs be deposited with Punjab and Haryana High Court Bar Association, Chandigarh Lawyers Family Welfare Fund.*

5. *Learned counsel for the petitioner also states that there are chances of amicable settlement between the parties and the matter may be referred to the Mediation and Conciliation Centre of this Court.*

6. *If that be so, both the parties be relegated before the Mediator on 20.10.2023 and report of the Mediator be awaited for 29.11.2023.*

7. *Till the next date of hearing, interim order to continue.”*

5. Learned counsel for the petitioner submits that in compliance of the order dated 05.10.2023, costs of Rs.10,000/- has been deposited.

6. Further contends that in terms of the aforesaid orders, petitioner has already joined investigation and her custodial interrogation is not required.

7. Above factual position is duly acknowledged by learned counsel for the U.T., on instructions from ASI Avtar Singh, and further stated that custodial interrogation of the petitioner is not required at this stage.

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8. In view of the above, interim orders dated 08.08.2023 and 05.10.2023 are made absolute subject to the conditions as envisaged under Section 438(2) Cr.P.C.
9. It is also made clear that petitioner shall fully co-operate with the Investigating Officer as and when called for further investigation.
10. The above observations may not be construed as an expression of opinion on merits of the case; rather confined only to decide the present bail matter.
11. Disposed off accordingly.
12. Pending application(s), if any, shall also stand disposed off.

29.11.2023
adhikari

(MAHABIR SINGH SINDHU)
JUDGE

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