

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

209

CRM-M-24990-2023 (O&M)

Date of Decision : 08.12.2023

HARJINDER KAUR

.... Petitioner

VERSUS

STATE OF PUNJAB & ANR.

.... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Neeraj Jain, Advocate for the petitioner.

Mr. Adhiraj Singh Thind, AAG Punjab for respondent No.1.

Mr. Ashok Sharma Nabhewala, Advocate for respondent No.2.

ALKA SARIN, J. (ORAL)

1. This is a petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail to the petitioner in FIR No.49 dated 08.09.2021 under Sections 420, 498-A, 406, 120-B of the Indian Penal Code, 1860 registered at Police Station NRI, District SAS Nagar (Mohali).

2. On 16.05.2023 the following order was passed :

“The present petition is for grant of anticipatory bail to the petitioner in case FIR No.49 dated 08.09.2021, under Sections 420, 498-A, 406 and 120-B of IPC, registered at Police Station NRI, District SAS Nagar.

Learned counsel for the petitioner has very fairly submitted that the complainant, who is the daughter-in-law of the petitioner, has been granted divorce from the

son of the petitioner in Australia and they both were living in Australia since the time of marriage also. In fact, the complainant was living in New Zealand since 2003 and after marriage, she shifted to Australia. The only function done in India was the marriage, which was solemnized for the happiness of the parents and both the parties returned back to Australia thereafter. The present FIR is an outburst of the divorce proceedings in Australia and only to harass and humiliate the old aged parents. The petitioner is a 79 year old lady and presently, she is in Australia and is coming to India on 21.05.2023.

Notice of motion.

Mr. Arun Gupta, AAG, Punjab, accepts notice on behalf of the respondent No.1-State. Mr. Ashok Sharma Nabhewala, Advocate, has put in appearance on behalf of respondent No.2-complainant.

Learned State counsel submits that the complaint has been made through a power of attorney holder and serious allegations have been leveled especially qua the locker maintained by the petitioner.

Mr. Ashok Sharma Nabhewala, counsel for the complainant, has relied upon a judgment passed by the Coordinate Bench in Sarabjit Singh Vs. State of Punjab and another, 2021 (4) RC.R. (Criminal) 87 decided on

16.07.2021, to contend that a petitioner, who voluntarily disengaged herself from the trial proceedings and left the country without seeking any permission from the trial Court, in such a situation, a petition filed through Special Power of Attorney would not be maintainable. However, the said order has been passed in a case where the petitioner was declared a proclaimed offender and, hence, the same cannot be considered.

After considering the entire matter and the fact that the petitioner is coming to India on 21.05.2023, she is directed to join the proceedings on 24.05.2023 at 10:00 A.M. before the Investigating Officer and cooperate with the Investigating Agency, even thereafter.

In the event of arrest, the petitioner be released on interim bail subject to furnishing personal/surety bonds to the satisfaction of the Arresting/Investigating Officer and the petitioner shall abide by the conditions as envisaged under Section 438 (2) Cr.P.C.

Adjourned to 08.08.2023.”

Thereafter, vide order dated 10.10.2023, the following order was passed :

“Learned counsel for the petitioner, on instructions from the petitioner who is present in Court, states that the complainant/respondent No.2 or any of her

representative may come along with her and the Investigating Officer to operate the locker and can recover whatever belongs to her.

The petitioner along with father of the complainant/respondent No.2 and the Investigating Officer along with a Lady Constable would go to check the locker of the petitioner on 18.10.2023. The father of the complainant/respondent No.2 will identify the articles therein which belong to the complainant/respondent No.2. After identification, the petitioner shall hand over the said articles to the Investigating Officer against proper receipt.

List on 08.12.2023.

Interim order to continue.”

3. Learned counsel for the State, on instructions from Inspector Tajinder Singh, has stated that the parties went to operate the locker, however, respondent No.2/complainant stated that the articles lying in the locker did not belong to her and she refused to take them. It is further stated that petitioner has otherwise joined investigation and has fully cooperated and that she is no longer required for further custodial interrogation as of now.

4. In view of the above, the order dated 16.05.2023 is made absolute. The petitioner shall, however, join investigation as and when called. The petitioner shall also abide by all the terms and conditions as

specified under Section 438(2) of the Code of Criminal Procedure, 1973.

5. Disposed off accordingly. Pending applications, if any, also stand disposed off.

08.12.2023
Aman Jain

(ALKA SARIN)
JUDGE

NOTE:

Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO