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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-25585-2023 (O&M)
Date of decision : 29.08.2023

Sukhjinder Singh ... Petitioner(s)

Versus

State of Punjab and another ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Anurag Chopra, Advocate for the petitioner.

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

Mr. Amit Arora, 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.14 dated 08.02.2023 under Sections 498-A, 406 and 120-B of Indian Penal Code, 1860 (IPC) registered at Police Station Sarai Amant Khan, District Tarn Taran.

2. On 19.05.2023 the following order was passed :

“Through instant petition under Section 438 of Code of Criminal Procedure, 1973, the petitioner is seeking anticipatory bail in FIR No.14 dated 08.02.2023, under Sections 498-A, 406 and 120-B IPC, registered at Police Station Sarai Amant Khan, District Tarn Taran.

Learned counsel for the petitioner inter alia contends

that marriage of the petitioner with complainant was solemnized on 24.02.2015 and FIR came to be registered on 08.02.2023 i.e. after 8 years from the date of marriage. The petitioner has filed petition under Section 12 of Hindu Marriage Act seeking decree of nullity of marriage as complainant is suffering from mental illness. The petitioner had filed a petition under Section 12 of HMA after one year from the date of solemnizing marriage. A doctor in his deposition before court in proceedings under Section 12 of HMA has confirmed that complainant is suffering from mental illness. Co-accused has been granted concession of interim bail by Additional Sessions Judge, Tarn Taran. The petitioner is ready to join investigation and face proceedings. The arrest would cause irreparable loss, mental agony, embarrassment and humiliation to petitioner as well entire family.

Notice of motion, returnable for 12.07.2023.

On the asking of Court, Ms. Guramrit Kaur, DAG, Punjab who on advance notice, is present in court, accepts notice on behalf of State-respondent.

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, 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 and that co-accused has been granted concession of bail by ASJ, this Court is of the prima facie opinion that petitioner deserves protection from arrest. Accordingly, at the first instance, the petitioner is directed to appear before investigating officer on 24.05.2023 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.

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”

3. Learned counsel for the petitioner would contend that pursuant to the said order, the petitioner has joined investigation and has fully cooperated.

4. On 12.07.2023 learned counsel for the complainant had stated that most of the dowry articles, including motor-cycle, had not been recovered.

5. Learned counsel for the State, on instructions from ASI

Sukhdev Singh, has stated that all the dowry articles stand recovered and the motor-cycle also stands recovered way back on 09.04.2023. Learned State counsel has further submitted that the petitioner has since joined investigation and has fully cooperated and that he is no longer required for further custodial interrogation as of now.

6. In view of the above, the order dated 19.05.2023 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.

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

29.08.2023

Yogesh Sharma

(ALKA SARIN)

JUDGE

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