

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

210

Criminal Misc. No. M-31499 of 2022

Date of decision :-19.09.2023

Sumit Kumar

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM:- HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. J.S. Lalli, Advocate
for the petitioner.

Mr. Jaswinder Singh Arora, DAG, Punjab.

Mr. Vishnu Dutt, Advocate
For the complainant.

NIDHI GUPTA J. (Oral)

The petitioner is seeking anticipatory bail in FIR No.92 dated 11.5.2022, under Sections 406 and 498-A IPC, registered at Police Station Women, Ludhiana, District Police Commissionerate, Ludhiana.

On 22.7.2022, this Court had passed the following order

:-

“Instant petition has been filed under Section 438 Cr.P.C. praying for grant of anticipatory bail to the petitioner in case FIR No.92, dated 11.05.2022, under Sections 406, 498-A IPC, registered at Police Station Women, Ludhiana, District Police Commissionerate, Ludhiana.

*It has been contended by learned counsel for the petitioner that the marriage in question took place on 18.08.2020, however, due to temperamental differences, the matrimonial discord took place between the husband and the wife. He submits that couple is blessed with a daughter on 03.05.2021. It is further submitted that petitioner has tried his level best to settle the dispute, however, the same could not be settled. It is further submitted that on the basis of false and frivolous allegations, the present FIR has been lodged. The petitioner has no criminal antecedents. He relies upon judicial precedent of the Hon'ble Apex Court in **Arnesh Kumar vs State of Bihar and another, 2014(3) SCC (Crl.) 449** and submits that in view of the above mentioned facts, no case for custodial interrogation is made out, however, petitioner is ready to join the investigation and abide by all the terms and conditions of the anticipatory bail if this Court considers his request for granting the same. He has submitted that the petitioner even now is ready to settle the dispute amicably, if the matter is referred to mediation.*

Issue notice of motion for 23.11.2022.

On the asking of the Court, Ms.Sakshi Bakshi, AAG, Punjab, who is present in Court, accepts notice on behalf of the State.

Learned counsel for the petitioner undertakes to implead the complainant as party-respondent No.2 in the petition and file amended memo of parties within a week from today.

On filing of amended memo of parties, complainant-respondent No.2 be also served for the date fixed.

Petitioner is also directed to pay Rs.10,000/- as litigation expenses to complainant-wife within one month from today.

In the meanwhile, in the event of arrest, the petitioner shall be released on interim bail subject to the satisfaction of the Arresting Officer/Investigating Officer. The petitioner shall join investigation before the Investigating Agency/Officer. He shall abide by the following conditions as envisaged under Section 438(2) Cr. P.C.:-

"(i) That the petitioner shall make himself available for interrogation by a police officer as and when required to do so;

(ii) That the petitioner shall not directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

(iii) That the petitioner shall not leave India without prior permission of the Court."

State is directed to file status report on or before the next date of hearing."

Learned counsel for the petitioner submits that in pursuance to the order dated 22.7.2022 passed by co-ordinate Bench of this Court, the petitioner has joined the investigation.

Learned State counsel assisted by learned counsel for the complainant, on instructions from ASI Harjinder states that in terms of the order passed by this Court, reproduced above, the petitioner has joined the investigation but some of the gold articles are yet to be recovered.

Hon'ble Supreme Court in *Bimla Tiwari vs. State of Bihar and others*, passed in *Special Leave Petition (Crl.) Nos.834-835 of 2023*, on *16.01.2023* held that matter of grant of bail, is not akin to money recovery proceedings.

In view of the above, the order dated 22.7.2022 granting interim bail to the petitioner is made absolute.

However, the petitioner shall abide by the conditions stipulated under Section 438(2) Cr.P.C. He shall also join the investigation and cooperate with the investigating agency in case he is required for the same in future as and when called upon to do so.

In case at any given point of time hereinafter, it is felt by the investigating agency that the petitioner is required for the investigation but is not cooperating, they will be at liberty to approach this Court for passing appropriate orders.

The petition stands disposed of.

September 19, 2023
Vijay Asija

(NIDHI GUPTA)
JUDGE

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