

CRM-M-29800-2023

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2023:PHHC:095913

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
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CRM-M-29800-2023

Date of Decision: 27.07.2023

Dr. Subin Saroa

.... Petitioner

Versus

State of Punjab and another

.... Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

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

Mr. Jashanpreet Singh, DAG, Punjab.

Mr. Dinesh Mahajan, Advocate
for respondent No. 2-complainant.

NIDHI GUPTA, J. (ORAL)

1. The petitioner is seeking anticipatory bail in case FIR No. 100 dated 10.05.2023 registered under Sections 498-A and 406 IPC at Police Station City Gurdaspur, District Gurdaspur.

2. On 06.06.2023, this Court had passed the following order:-

“1. Mr. Rimple Saini, Advocate for Mr. Dinesh Mahajan, Advocate puts in appearance on behalf of respondent No.2/complainant and files his memorandum of appearance in Court today, which is taken on record, subject to all just exceptions. Office is directed to tag the same at appropriate place. He undertakes to file his Vakalatnama in the registry in due course of time.

2. Petitioner-Dr.Subin Saroa, aged 36 years has filed instant petition for seeking anticipatory bail under Section 438 Cr.P.C. in FIR No.100 dated 10.05.2023 under Sections 498-A, 406 IPC at Police Station City Gurdaspur, District

Gurdaspur.

2. Counsel for the petitioner submits that initially, FIR was registered against (i) petitioner-Dr. Subin Saroa (husband of complainant), (ii) Kashmiri Lal (father-in-law of complainant), (iii) Kuldip Saroa (mother-in-law of complainant) and (iv) Dr. Shubhangi Saroa (sister-in-law of complainant) on the basis of complaint moved by complainant-Dr. Priya, who is wife of the present petitioner. During investigation, except the petitioner, all the other accused were found innocent.

3. Counsel for the petitioner also submits that both the petitioner and respondent No.2 being doctors, are medical practitioners and a false case has been got lodged against petitioner due to temperamental differences between them. Marriage of petitioner and complainant-Priya was performed on 18.04.2017 and no child has been born out of said wedlock. Only allegation against the petitioner is that on being instigated by her parents-in-law, her husband has been asking her to bring Rs.20 lakhs from her house for opening clinic and to purchase one car.

4. Counsel for the petitioner submits that allegations made by complainant are baseless and thus, concocted. He further submits that there is no chance of his absconding, therefore he is ready to join the investigation as it is a dispute between husband and wife only.

5. Notice of motion.

6. On asking of Court, Mr. Joginder Pal Ratra, Sr. DAG, Punjab, who is present in Court, accepts notice on behalf of respondent No.1(State) and Mr. Rimple Saini, Advocate, accepts notice on behalf of respondent No.2/complainant.

7. Counsel for the petitioner and counsel appearing on behalf of respondent No.2 jointly states that matter may be

referred to the Mediation and Conciliation Centre of this Court, so that all the disputes can be resolved peacefully by way of amicable settlement.

8. *In view of the stand of the contesting parties, both the parties i.e. petitioner-Dr. Subin Saroa and respondent No.2-Dr. Priya are directed to appear before the said Forum on 20.06.2023. Needless to say that parties shall remain present on each and every date fixed by the said Forum.*

9. *Awaiting report, adjourned to 27.07.2023.*

10. *In the meanwhile, the petitioner is directed to join the investigation on 14.06.2023 or as and when required to do so by the Investigating Agency. In the event of his arrest, the petitioner shall be released on ad-interim bail, subject to his furnishing bail bonds to the satisfaction of the Arresting Officer. The petitioner shall also abide by all the conditions laid down under Section 438 Cr.P.C.”*

3. Learned counsel for the petitioner submits that in compliance of the aforesaid order, the petitioner has joined the investigation and is co-operating with the investigating agency.

4. Learned State counsel, on instructions from ASI Jai Singh, states that in terms of the order passed by this Court, reproduced above, the petitioner has joined the investigation and partial recovery has been effected from him. He further submits that major recovery is yet to be effected from him.

5. Learned counsel submits that the petitioner had even filed an application under Section 9 of the Hindu Marriage Act, 1955, for Restitution of Conjugal Rights with respondent No. 2-wife. However, she is not appearing in the said case.

6. I have heard learned counsel for the parties.

7. Hon'ble the Supreme Court in **Bimla Tiwari vs. State of Bihar and others, Law Finder Doc ID # 2110551**, has held that "matter of grant of bail is not akin to money recovery proceedings".

8. In view of the above, the order dated 06.06.2023 granting interim bail to the petitioner is made absolute.

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

10. 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.

11. The petition stands disposed of.

27.07.2023

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**(NIDHI GUPTA)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No