

2023:PHHC:122781

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

CRM-M-33105-2023

Date of Decision: 19.09.2023

**AJAY SHANKAR GUPTA ... PETITIONER
VS.
STATE OF PUNJAB AND ANOTHER .. RESPONDENTS**

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present : Mr. Haneet Sharma, Advocate for
Mr. Varun Dhawan, Advocate, for the petitioner.
Ms. Ruchika Sabherwal, DAG, Punjab.
Mr. Vishal Gupta, Advocate, for respondent No.2.

VIVEK PURI, J.(ORAL)

1. On 13.07.2023, the following order was passed:-

“1. Petitioner is seeking anticipatory bail in case bearing FIR No.32 dated 21.05.2023 under Sections 406, 498-A IPC, registered at Police Station Women Cell, SAS Nagar.

2. Learned counsel for the petitioner contends that the marriage of the petitioner was solemnized with the complainant on 07.03.2018 and a son has been born from the wedlock. There are vague allegations with regard to cruelties and demand of dowry raised in the FIR. No specific date or time with regard to any incident has been specified. The complainant has received all her jewellery items which is made out from the telephonic conversation, Annexure P-2. The petitioner has also joined the enquiry proceedings in pursuance of the notice under Section 41-A Cr.P.C. The complainant has instituted the proceedings as per the provisions of Protection of Women from Domestic Violence Act and also a petition under Section 125 Cr.P.C. The custody of the minor child is with the complainant. The petitioner is ready and willing to amicably settle the matrimonial dispute.

3. On the oral request, complainant i.e. Ruchi w/o Ajay Shankar Gupta, r/o # 89, Sada Shiv Enclave, near Astha Flat Baltana, Zirakpur, SAS Nagar, Punjab is impleaded as respondent No.2. Registry is directed to make the necessary entry in the memo of parties.

4. Notice of motion.

5. Ms. Ruchika Sabherwal, DAG Punjab accepts notice on behalf of the State.

6. The petitioner and the complainant are directed to appear before the Mediation and Conciliation Center of this Court on 22.08.2023. On appearance of the complainant before the Mediator, the petitioner shall pay a sum of Rs. 30,000/- to facilitate her presence and participation in the mediation proceedings.

7. Report of the Mediator be awaited for 19.09.2023.

8. Meanwhile, the petitioner shall join the investigation and would come present as and when called for and in the event of arrest, the petitioner shall be admitted to interim bail on his furnishing personal and surety bonds to the satisfaction of Arresting/Investigating Officer. The petitioner shall also abide by the conditions as specified under Section 438(2) Cr.P.C.”

2. As per the report of the Mediator, the parties could not reach at amicable settlement.
3. Learned counsel for the petitioner contends that in pursuance of interim directions issued by this Court, the petitioner has joined the investigation and while leaving the matrimonial house, the complainant had taken the jewellery items with her and the petitioner is not in possession of any article of istridhan.
4. Learned State counsel, on instructions from HC Harjeet Singh, submits that the petitioner has joined the investigation and his custodial interrogation is not required.
5. Learned counsel for respondent No.2/complaint has opposed the bail application on the score that recovery of jewellery items is yet to be effected.
6. Be that as it may, the controversy as to whether the jewellery items were entrusted to the petitioner and has been misappropriated by him will be a debatable and moot point during the course of trial. The petitioner has joined the investigation in pursuance of interim directions and his custodial interrogation is not required.
7. As such, sufficient exceptional circumstances are made out to extend the concession of pre-arrest bail to the petitioner. Accordingly, order dated 13.07.2023, vide which the petitioner has been granted interim bail, is made absolute.
8. Petition is allowed.

19.09.2023
smriti

(VIVEK PURI)
JUDGE

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