

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

201

CRM-M-41278-2022

Date of Decision: 04.05.2023

Younus

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Manvinder Singh Sidhu, Advocate for the petitioner

Mr. Shiva Khurmi, AAG, Punjab
(assisted by ASI Jaswant Singh)Mr. Pankaj Kalia, Advocate for
Mr. Mohd. Gulzar, Advocate for the complainant

JAGMOHAN BANSAL, J. (ORAL)

1. On 09.09.2022, the following order was passed:-

“Instant petition has been filed under Section 438 Cr.P.C. praying for grant of anticipatory bail to the petitioner in case FIR No.26, dated 20.04.2022, under Sections 498A, 313, 34 IPC, registered at Police Station Women Cell, Jalandhar.

It has been contended by learned counsel for the petitioner that marriage of the petitioner took place with the complainant on 19.12.2019. However, after the marriage, due to temperamental differences, there arose a dispute and despite the best efforts from petitioner side to settle the same, the complainant left the matrimonial home. He submits that thereafter the complainant has lodged the present FIR on the basis of false and frivolous allegations. He has submitted that

the allegations pertaining to harassment on account of demand of dowry and termination of pregnancy due to the alleged cruelty by the petitioner are without any basis. He has submitted that as per the allegations in the FIR itself, the complainant has alleged that on 02.06.2020, her health deteriorated and after ultrasonography conducted by the doctor, she was informed that the fetus was not growing. He has submitted that it was on account of the same that abortion was done and not on the basis of the allegations, as alleged by the complainant. He submits that there is no medical corroboration regarding the allegations made by the complainant. It is further submitted that the petitioner has no criminal antecedents and hence, no case for custodial interrogation is made out. He further submits that though on earlier occasion, the efforts for mediation were made, however, due to unreasonable demand of the complainant side, the same did not materialise. It is further submitted that even now the petitioner is ready to settle the dispute amicably if the matter is referred to mediation Centre and in the facts and circumstances, no case for custodial interrogation is made out.

Issue notice of motion for 08.12.2022.

On the asking of the Court, Mr.Sandeep Singh, DAG, Punjab, who is present in Court, accepts notice on behalf of the respondent-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 by learned counsel for the petitioner, complainant be also served for the date fixed.

Petitioner is also directed to pay Rs.25,000/- 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.”

2. By order dated 08.12.2022 of this Court, parties were directed to appear before Mediation and Conciliation Centre of this

Court. As per report of the Mediator, mediation proceedings could not be fructified. The petitioner has paid a sum of Rs.25,000/- towards litigation expenses to the complainant-wife.

3. Learned State counsel, on instructions from ASI Jaswant Singh, submits that petitioner has joined investigation and no custodial interrogation is required.

4. In view of the above facts and circumstances, the petition is allowed and the interim bail granted to the petitioner vide order dated 09.09.2022 is made absolute subject to the conditions envisaged under Section 438(2) of Cr.P.C.

5. If the petitioner or his family members/associates make any attempt to threat/intimidate the witnesses in the present case, the State would be at liberty to move an application for cancellation of bail granted by this order.

6. 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.

(JAGMOHAN BANSAL)
JUDGE

04.05.2023
Mohit Kumar

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>