

2023:PHHC:140923

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

CRM-M-40789-2023

Date of Decision: 06.11.2023

HIMANSHU WADHWA

... PETITIONER

VS.

STATE OF PUNJAB AND ANOTHER

.. RESPONDENTS

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present : Mr. J.S.Yadav, Advocate, for the petitioner.
Ms. Ruchika Sabherwal, DAG, Punjab.
Mr. J.S.Arora, Advocate, for respondent No.2.

VIVEK PURI, J.(ORAL)

1. On 21.08.2023, the following order was passed:-

“1. Petitioner is seeking anticipatory bail in case bearing FIR No.44 dated 29.06.2023 under Sections 498A, 406 IPC, registered at Police Station Women Cell, District Mohali.

2. Learned counsel for the petitioner contends that the marriage of the petitioner was solemnized with the complainant on 11.11.2017 and a daughter has been born from the wedlock. The matrimonial dispute has cropped up between the parties. The petitioner had submitted 4 complaints against the complainant with the Police authorities. Besides, he has also instituted a petition under Section 13 of Hindu Marriage Act. The complainant has also initiated the proceedings under the Protection of Women from Domestic Violence Act. The parties are residing separate from each other for a period of about 1-1/2 years. Both the petitioner and the complainant are gainfully employed. The FIR has been lodged on the basis of the false and vague allegations. The petitioner is ready and willing to return all the articles of Istridhan and also to explore the possibility of amicable settlement through mediation.

3. On the oral request, complainant i.e. Neha w/o Himanshu Wadhwa, r/o # 578, First Floor, Omex Cassia, New Chandigarh, Tehsil Kharar, District SAS Nagar, Mohali is impleaded as respondent No.2.

4. Notice of motion.

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

6. Mr. J.S.Arora, Advocate has put appearance on behalf of the complainant.

7. Learned counsel for complainant/respondent No.2 has controverted the allegations as put forth by the petitioner but has fairly submitted that the complainant is not averse to explore the possibility of amicable settlement in Mediation Centre.

8. The petitioner and complainant/respondent No.2 are directed to appear before the Mediation and Conciliation Center of this Court on 11.09.2023.

9. Report of the Mediator be awaited for 06.11.2023.

10. 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 received from the Mediator, despite best efforts, the parties could not reach at any 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 is not in possession of any article of *istridhan*. The entire jewellery of the complainant is in her possession. Even there are false allegations to the effect that the father of the complainant has transferred a sum of Rs.40 lac to petitioner but the same is not supported with any document depicting such transaction.

4. Learned State counsel submits that though the petitioner has joined the investigation but recovery of 30 tolas of jewellery and cash to the tune of Rs.40 lac is to be effected.

5. Learned counsel for the complainant has opposed the bail application on the score that recoveries are yet to be effected.

6. Be that as it may, the controversy as to whether 30 tolas of golden jewellery and cash 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. As such, sufficient exceptional circumstances are made out to extend the concession of pre-arrest bail to the petitioner.

7. Accordingly, order dated 21.08.2023, vide which the petitioner has been granted interim bail, is made absolute.

8. Petition is allowed.

06.11.2023

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(VIVEK PURI)
JUDGE

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