

CRM-M-42255-2022 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-42255-2022 (O&M)
Date of decision : 09.08.2023

Paramvir Singh ... Petitioner(s)

Versus

State Of Punjab & Anr. ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Preetinder Singh Ahluwalia, Advocate for the petitioner.

Mr. Adhiraj Singh Thind, AAG Punjab for respondent No.1.

Mr. Nitish Garg, Advocate for respondent No.2.

ALKA SARIN, J. (ORAL)

1. This is a petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail to the petitioner in FIR No.59 dated 31.08.2022 (Annexure P-1) under Sections 406, 498-A of Indian Penal Code, 1860 (IPC) registered at Police Station Women, District Patiala.
2. On 15.09.2022 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.59, dated 31.08.2022 (Annexure P/1), under Sections 406, 498-A IPC,

registered at Police Station Women, District Patiala.

It has been contended by counsel for the petitioner that petitioner was married with respondent No.2/complainant on 18.11.2018 and after the marriage, they are blessed with a son, who is at present in custody of petitioner-father. He submits that on account of some temperamental differences, the matrimonial discord took place between them and despite the best efforts of the petitioner, the complainant/wife left the matrimonial home on 21.09.2021. He submits that both the sides are very well educated and well settled and the petitioner, in all circumstances, is ready to settle the dispute amicably. He further submits that allegations made in the FIR pertaining to harassment to the complainant/wife on account of demand of dowry are totally false and frivolous. He submits that one enquiry was also conducted by Superintendent of Police(Local), Patiala, where the allegations were found to be false. He submits that de hors the merits of the case, the petitioner is ready to settle the dispute amicably even today if the matter is referred to mediation centre. 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.

Issue notice of motion for 11.01.2023.

On the asking of the Court, Mr.Sandeep Kumar, DAG, Punjab, who is present in Court, accepts notice on

behalf of the respondent/State, whereas Mr.Nitish Garg, Advocate, accepts notice on behalf of respondent/complainant and though he opposes the submissions made by learned counsel for the petitioner, however, on interaction, he submits that complainant is also ready to join the matrimonial home and the parties should be granted one opportunity for exploring the possibility of amicable settlement of the dispute by referring the same to the Mediation Centre.

In view of agreed position, the parties are directed to appear before the Mediation and Conciliation Centre of this Court on 30.09.2022 at 10.00 a.m. for making an effort to amicably settle the dispute.

Petitioner is also directed to pay Rs.25,000/- as litigation expenses to respondent No.2/wife on her first appearance before the Mediation Centre.

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 on 20.09.2022 at 10.00 a.m. 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. ”

3. Learned counsel for the petitioner would contend that pursuant to the said order, the petitioner appeared before the mediation center, however, mediation failed. The petitioner has also joined investigation and has fully cooperated and that, as per the petitioner, recovery of 10 tolas of gold along with other household articles has been made.

4. Learned counsel for the State, on instructions from ASI Mandar Singh, has stated that the petitioner has since joined investigation and has fully cooperated and that he is no longer required for further custodial interrogation as of now. Learned State counsel has further pointed out that though it has been alleged that 46 tolas of gold along with some household articles were given at the time of marriage, however, only bills worth Rs.7,50,000/- were handed over to the Investigating Officer which have been verified. It is further stated that only 6 Tolas of gold have been recovered.

5. Pursuant to the order dated 27.07.2023 the parties are present in Court today and the Court did try and interact with them in order to have some sort of a compromise. However, no settlement seems possible. Though a very fair offer was made by the counsel for the petitioner, however, the same was not acceptable to the respondent. It would not be appropriate for this Court, at this stage, to delve into the details.

6. The learned counsel for the petitioner has submitted that the dispute started when the complainant came and abandoned the minor child at the house of the petitioner. Reference has been made to the CCTV recording

which has been seen by this Court in which the respondent is seen abandoning a child at the house of the petitioner. It is further the contention that the petitioner has falsely been implicated.

7. Learned counsel for the complainant has vehemently opposed the application. It is the contention of the counsel that recoveries are yet to be effected in the present case. It is further the contention that in November 2020, due to the beatings given by the petitioner, the navicular bone of the foot of the complainant got dislocated. Reference is made to the medical prescription dated 14.04.2021. On a query by the Court as to how the said prescription can be co-related to the incident of November 2020, the counsel is unable to give an answer.

8. The petitioner in the present case has joined investigation and is no longer required for custodial interrogation as per the counsel for the State. Recovery of some household goods alongwith 6 Tolas of gold have been made.

9. In view of the above, the order dated 15.09.2022 is made absolute. The petitioner shall, however, join investigation as and when called. The petitioner shall also abide by all the terms and conditions as specified under Section 438(2) of the Code of Criminal Procedure, 1973. In addition, the petitioner shall hand over a demand draft of Rs.5,00,000/-, in the name of respondent No.2 to the Investigating Officer which shall be kept by him till the end of the trial. The said demand draft shall be renewed by the petitioner from time to time to ensure its validity does not expire.

10. Any observations made herein shall not be treated as an

expression of opinion on the merits of the case.

11. Disposed off accordingly. Pending applications, if any, also stand disposed off.

09.08.2023
Yogesh Sharma

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO