

CRM-M-43878-2022

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2023:PHHC:101889

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
208

CRM-M-43878-2022

Date of Decision: 07.08.2023

Dinesh Kumar

.... Petitioner

Versus

State of Punjab and another

.... Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Abhijeet P.S. Chaudhary, Advocate for the petitioner.

Mr. Aditya Kapoor, AAG, Punjab.

Ms. Mehak Sawhney, Legal Aid Counsel
for the complainant.

NIDHI GUPTA, J. (ORAL)

The petitioner is seeking anticipatory bail in case FIR No. 128 dated 08.08.2022 registered under Sections 498-A and 406 IPC at Police Station Division No. 2, District Police Commissionerate Ludhiana.

On 22.09.2022, this Court had passed the following order:-

“Instant petition has been filed under Section 438 Cr.P.C. praying for grant of anticipatory bail to the petitioner in case FIR No.128, dated 08.08.2022, under Sections 498-A, 406 IPC, registered at Police Station Division No.2, District Police Commissionerate Ludhiana.

It has been contended by counsel for the petitioner that petitioner was married with complainant on 07.08.2020. He submits that thereafter the family of the petitioner, i.e. brother and parents of the petitioner, have

*also joined the matrimonial home in Bangalore and on account of the same, the matrimonial discord took place between the husband and the wife. He has submitted that despite the best efforts of the petitioner, complainant-wife did not cooperate in the matrimonial home and hence after about one year, she came back from Bangalore to her parental home in Delhi. He has submitted that thereafter false and frivolous allegations were levelled against the petitioner regarding harassment caused to the wife on account of demand of dowry. He has submitted that she has also levelled the allegations that the petitioner has illicit relations with some other woman, which are also without any basis. He has submitted that petitioner is keen to settle the dispute amicably. He further submits that petitioner has no criminal antecedents and if the matter is referred to mediation centre, the outstanding issues can be resolved amicably. 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, he 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 23.01.2023.

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

Learned counsel for the petitioner undertakes to implead the complainant as party-respondent No.2 in the present petition and file amended memo of parties within a week from today.

On filing of amended memo of parties by 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 the complainant-wife on her first appearance before this Court.

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. She 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.”

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. Learned counsel for the petitioner further submits that marriage between the parties was solemnized on 07.08.2020 and they are living separately since, 01.08.2021. No child was born out of this wedlock.

Learned State counsel, on instructions from ASI Rajinder Singh, states that in terms of the order passed by this Court, reproduced above, the petitioner has joined the investigation.

On the other hand, learned counsel for the complainant submits that though the petitioner has joined the investigation and partial recovery has been effected from him. However, gold ornaments are yet to be recovered from him.

I have heard learned counsel for the parties.

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".

In view of the above, the order dated 22.09.2022 granting interim bail to the petitioner is made absolute.

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.

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.

The petition stands disposed of.

07.08.2023

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**(NIDHI GUPTA)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No