

CRM-41056-2023 in/and
CRM-M-45180-2022 (O&M)

2023:PHHC: 143248
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205 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-41056-2023 in/and
CRM-M-45180-2022 (O&M)
Date of Decision: 09.11.2023

KULWINDER SINGH

... PETITIONER

V/S

STATE OF PUNJAB AND ANOTHER

... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Mayur Karkra, Advocate for the petitioner.

Ms. Ruchika Sabherwal, DAG Punjab.

Mr. Barjinder Singh, Advocate for complainant/
respondent No.2.

* * * *

VIVEK PURI, J. (ORAL)

1. On 29.09.2022, following order was passed:

“Present petition is under Section 438 Cr.P.C. for seeking anticipatory bail to the petitioner in case FIR No.64 dated 05.09.2022, registered under Sections 406/498-A IPC, at Women Police Station, Patiala.

Learned counsel for the petitioner contends that the marriage of the petitioner was solemnized with respondent No.2/complainant on 18.10.2020 and a daughter has been born from the wedlock. It was a simple marriage which took place during the period of Covid-19 Pandemic. Subsequently, the petitioner came to know that the complainant was having a subsisting marriage at the time of solemnizing marriage with him. The fact of earlier marriage was concealed and consequently, the petitioner was deceived by the complainant and others. The petitioner had submitted complaints (Annexures P-2 and P-3) to the police authorities to initiate action against the complainant and the present FIR has been lodged as a counterblast thereto. The complainant has also instituted a petition under Protection of Women from Domestic Violence Act wherein there is no allegation with regard to the beatings given to the complainant. Furthermore, the petitioner has also instituted a petition under Section 9 of Hindu Marriage

Act for restitution of conjugal rights and is ready and willing to amicably settle the matrimonial dispute through mediation.

Notice of motion.

Ms. Ruchika Sabherwal, AAG, Punjab accepts notice on behalf of the respondent-State.

The parties are directed to appear before the Mediation and Conciliation Centre of this Court on 27.10.2022.

To await the report, list on 27.01.2023.

However, the petitioner shall pay a sum of Rs. 30,000/- to respondent No.2/complainant on her appearance before the Mediation and Conciliation Centre of this Court to facilitate her presence and participation during the course of mediation proceedings.

Meanwhile, it is directed that in the event of arrest, the petitioner be admitted on interim bail on furnishing bail bonds to the satisfaction of the Arresting Officer subject to the condition that he joins the investigation and comply with other conditions as specified under Section 438(2) Cr.P.C. ”

2. Learned counsel for the petitioner contends that in pursuance of the interim directions, the petitioner has joined the investigation. Furthermore, the respondent No.2 has submitted an application for dismissal of the bail application alleging that the fact of concealment of the earlier marriage of the complainant was misrepresented while making submissions on 29.09.2022. It has been submitted that the applications, Annexures P-2 and P-3 for initiating action against the complainant for solemnizing marriage with the petitioner by concealment of earlier marriage have also been submitted to the concerned Police authorities.

3. Learned State counsel, on instructions from ASI Mandeep Singh, submits that in pursuance of the interim directions, the petitioner has joined the investigation, his custodial interrogation is not required and on conclusion of investigation, challan has also been presented.

4. Learned counsel for the complainant/respondent No.2 submits

that a false assertion was made to the effect that respondent No.2 was having subsisting marriage at the time of her marriage with the petitioner and consequently, the petition is liable to be dismissed.

5. It may be mentioned here that in pursuance of the interim directions, the petitioner has joined the investigation and his custodial interrogation is not required. Furthermore, on conclusion of investigation, the challan has also been presented. The present FIR has been registered on account of marital discord between the petitioner and respondent No.2. The controversy as to whether respondent No.2/complainant was having any subsisting marriage at the time of her marriage with the petitioner may be a debatable and moot point during the course of trial.

6. Considering above, the petition is allowed and the interim bail granted by this Court vide order dated 29.09.2022 is made absolute.

09.11.2023

Janki

**(VIVEK PURI)
JUDGE**

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No