

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
209

CRM-M-43773-2023

Date of Decision: 13.10.2023

Vishvjeet @ Vishwjeet

.... Petitioner

Versus

State of U.T. Chandigarh and another

.... Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. S.S. Momi, Advocate for the petitioner.

Mr. Vivek Singla, APP for U.T. Chandigarh.

Mr. Siddharth Pandit, Advocate
for respondent No. 2/complainant.

NIDHI GUPTA, J. (ORAL)

The petitioner is seeking anticipatory bail in case FIR
No. 37 dated 22.07.2023 (Annexure P-1) registered under Sections 406
and 498-A IPC at Women Police Station, Sector-17, Chandigarh.

On 02.09.2023, this Court had passed the following order:-

“Prayer in this first petition filed under Section 438 Cr.P.C. is for grant of anticipatory bail to the petitioner in case FIR No. 37 dated 22.07.2023 (Annexure P-1) registered under Sections 406 and 498-A IPC at Women Police Station, Sector-17, Chandigarh.

Learned counsel for the petitioner, *inter alia*, contends that in the present case, FIR has been lodged by the estranged wife/complainant/ respondent No. 2 herein. It is submitted that marriage of the petitioner with respondent No. 2-complainant was solemnized on 19.10.2020 at Panchkula. The marriage has not been consummated. Learned counsel further submits that the parties were married in Panchkula, the matrimonial home is at Aero City, SAS Nagar (Mohali), however, the present FIR was lodged at Women Police Station, Sector-17 Chandigarh, therefore,

the same is directly hit by the provisions of Section 181(4) Cr.P.C. It is further submitted that only general and omnibus allegations have been made in the FIR against the petitioner and his mother, which are totally false and fabricated.

Notice of motion.

On the asking of Court, Mr. Vivek Singla, Addl. P.P. for U.T. Chandigarh, accepts notice on behalf of respondent No. 1-U.T. Chandigarh; whereas Mr. Siddharth Pandit, Advocate, who is present in Court accepts notice on behalf of respondent No. 2-complainant and submits his Vakalatnama, which is taken on record.

Learned counsel for respondent No. 2-complainant submits that the complainant has been shunted out of her matrimonial home in a most unbecoming manner. The petitioner had dropped her to her office and directed her not to return to the matrimonial home. He further submits that the petitioner through a third person has moved a totally false complaint against the mother and brother of the complainant.

On the other hand, learned counsel for respondent No.1-UT Chandigarh, submits that father-in-law of the complainant/father of the petitioner has been arrested in another FIR at Kurukshetra. He further submits that recovery has to be effected from the petitioner in respect of 17 bills regarding purchase of jewellery and 10 bills for purchase of other miscellaneous articles/utensils etc., at the time of marriage submitted by respondent No. 2-complainant before the Investigating Agency.

Adjourned to 13.10.2023.

In the meantime, the petitioner is directed to appear before the SHO/Investigating Officer to join investigation and in the event of his arrest, he shall be released on interim bail on his furnishing bail bonds to the satisfaction of SHO/Investigating Agency, subject to the following conditions as envisaged under Section 438(2) Cr.P.C.:-

- i) *that the petitioner shall make himself available for interrogation before the Investigating Officer as and when required;*
- 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/her from disclosing such facts to the Court or to any police officer;*
- iii) *that the petitioner shall not leave the country, without prior permission of the Court and shall surrender his passport, if any.*

Meanwhile, State counsel is directed to file an affidavit/status report as to the exact role of the petitioner

along with the details of pending FIRs, if any, on or before the next date of hearing.”

Status report dated 13.10.2023, filed on behalf of respondent No. 1-UT Chandigarh in compliance of the order dated 02.09.2023, is taken on record.

Learned counsel for the petitioner submits that in compliance of the aforesaid order, the petitioner has joined the investigation.

On instructions, learned APP for U.T. Chandigarh, states that in terms of the order passed by this Court, reproduced above, the petitioner has joined the investigation; and is co-operating with the investigating agency, and no further interrogation is required, at this stage.

However, learned counsel for respondent No. 2-complainant submits that the matter pertains to matrimonial discord between the parties. He further submits that though the petitioner has joined the investigation, but recovery of dowry articles is yet to be effected from him.

Learned counsel for the petitioner vehemently controverts the aforesaid submission of learned counsel for respondent No.2-complainant and submits that recovery of all dowry articles have been effected from the petitioner.

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 02.09.2023 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.

13.10.2023
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(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No