

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

203

CRM-M-48457-2022

Date of Decision: 31.05.2023

Gaurav Pal

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Rahul Garg, Advocate for
Mr. Dishant Rishi, Advocate for the petitioner

Mr. A.P.S Tung, DAG, Punjab
(assited by SI Jaswinder Singh)

JAGMOHAN BANSAL, J. (ORAL)

1. On 21.10.2022, the following order was passed:-

“Prayer in the present petition is for grant of anticipatory bail to the petitioner in case FIR No.14 dated 19.02.2021, under Sections 406 and 498-A of IPC, registered at Police Station Chamkaur Sahib, District Rupnagar, Punjab.

It has been contended by counsel for the petitioner that the petitioner was married with the complainant on 08.01.2013 and thereafter, they are blessed with three children. He has submitted that on account of their temperamental differences, matrimonial discord took place between the husband and wife. He has submitted that despite best efforts of the petitioner, complainant left the matrimonial home along with her children and since 2018, they are living separately. He has submitted that false and frivolous FIR has been lodged by the complainant wherein, the

allegations pertaining to impotency of the petitioner are also levelled. He has submitted that as the couple is blessed with three children, thus, there is no iota of truth in the allegations made by the complainant. He submits that the petitioner has no criminal antecedents. He has relied 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 the petitioner has no criminal antecedents and in view of the above mentioned facts, no case for custodial interrogation of the petitioner is made out. He submits that if the matter is referred to the Mediation Centre, the petitioner is ready to settle the dispute amicably. However, petitioner is ready to join investigation.

Notice of motion.

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

Learned counsel for the petitioner undertakes to implead the complainant-wife as respondent No.2 in this petition and file amended memo of parties within two weeks from today.

On impleadment of complainant-wife as respondent No.2, notice to her be issued for 27.02.2023. Petitioner is directed to pay Rs.25,000/- as litigation expenses to respondent No.2-wife on her first appearance.

List on 27.02.2023.

In the meantime, 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. He shall abide by the following conditions as envisaged under Section 438(2) Cr.P.C:-

- 1. That the petitioner shall make himself available for interrogation by a police officer as and when required to do so.*
- 2. 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.*
- 3. That the petitioner shall not leave India without prior permission of the court.”*

2. On 27.02.2023, the following order was passed:-

“Learned counsel for private respondent, at the outset, submits that in the order dated 21.10.2022 of this Court, it is noted that petitioner from his wedlock is blessed with three children which is factually incorrect. The petitioner has misled the Court. The petitioner is impotent and he has wrongly stated before this Court that he is blessed with three children.

On being confronted with this fact, learned counsel for the petitioner submits that there was no such averment in the petition, however, it appears that there is mistake on his part. He further submits that he

is ready for amicable settlement with the complainant and the matter may be referred to Mediation and Conciliation Centre of this Court.

In view of statement made by learned counsel for the petitioner, let the parties appear before Mediation and Conciliation Centre of this Court on 14.03.2023.

The petitioner, at the first instance at the time of appearance before the Mediator would hand over a sum of Rs.25,000/- to the complainant, as already directed vide order dated 21.10.2022 of this Court.

For awaiting the report of Mediation and Conciliation Centre, adjourned to 18.04.2023.

Interim order to continue.”

3. Learned State counsel, on instructions from SI Jaswinder Singh, submits that petitioner has joined investigation and no custodial interrogation is required.

4. In view of above facts and circumstances, the petition is allowed and the interim bail granted to the petitioner vide order dated 21.10.2022 is made absolute subject to the conditions envisaged under Section 438(2) of Cr.P.C.

5. If the petitioner or his family members/associates make any attempt to threat/intimidate the witnesses in the present case, the State would be at liberty to move an application for cancellation of bail granted by this order.

6. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and Trial Court shall proceed without being prejudiced by observations of this Court.

(JAGMOHAN BANSAL)
JUDGE

31.05.2023
Mohit Kumar

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>