

2023:PHHC:119190

203 IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CRM-M-60560-2022

Date of Decision: 12.09.2023

DAMODAR @ NANDU

... PETITIONER

VS.

STATE OF PUNJAB

.. RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present : Ms. Savita Saxena, Advocate, for the petitioner.

Ms. Ruchika Sabherwal, DAG, Punjab.

Mr. Vikas Kumar, Advocate for

Mr. B.D.Sharma, Advocate, for respondent No.2.

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**VIVEK PURI, J.(ORAL)**

1. On 23.12.2022, 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.351, dated 09.08.2022, under Sections 406, 498-A IPC, registered at Police Station Sohana, SAS Nagar, Mohali, Punjab.

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

It has been contended by counsel for the petitioner that petitioner solemnized marriage with the complainant on 03.07.2021. She submits that petitioner is employed in Noida and the complainant/wife is employed in Mohali. She submits that both the petitioner and the complainant are very well educated and very well settled, however, the differences between both of them are on account of their temperamental differences. She submits that petitioner tried his level best to settle the dispute amicably and to show his bona fide he has filed a petition under Section 9 of the Hindu Marriage Act, which is pending consideration. She submits that FIR has been lodged in a deliberated manner only in order to harass the petitioner and his family members. He further submits that allegations pertaining to alleged harassment caused to the complainant/wife on account of demand of dowry are totally false and frivolous. She relies upon **Arnesh Kumar vs State of Bihar and another**, 2014(3) SCC (CrI.) 449 and submits that in view of the aforementioned

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. It is further submitted that if the matter is referred to mediation, the dispute between husband and wife can be amicably resolved. She further submits that co-accused of the petitioner has already been granted anticipatory bail.

Issue notice of motion for 19.04.2023.

On the asking of the Court, Ms.Ishma Randhawa, Additional Advocate General, Punjab, who is present in Court, accepts notice on behalf of the respondent-State.

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 complainant within one month from today.

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. 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.”

2. As per the report, in the absence of the complainant, the effective mediation proceedings could not take place.

3. Learned counsel for the petitioner contends that in pursuance of interim directions issued by this Court, the petitioner has joined the investigation and furthermore, all the articles of istridhan, which were in his possession, have been handed over to the Investigating Agency.

4. Learned State counsel submits that the petitioner has joined the investigation, recovery of some articles of istridhan has been effected but some jewellery items are yet to be recovered.
5. On a query, learned State counsel submits that no bills with regard to jewellery items have been submitted by the complainant.
6. Be that as it may, the controversy as to whether the articles of istridhan and golden jewellery were entrusted to the petitioner and has been misappropriated by him will be a debatable and moot point during the course of trial. The petitioner has joined the investigation in pursuance of interim directions and his custodial interrogation is not required. As such, sufficient exceptional circumstances are made out to extend the concession of pre-arrest bail to the petitioner. Accordingly, order dated 23.12.2022, vide which the petitioner has been granted interim bail, is made absolute.
7. Petition is allowed.

12.09.2023  
smriti

(VIVEK PURI)  
JUDGE

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|---------------------------|----------|
| Whether speaking/reasoned | : Yes/No |
| Whether Reportable        | : Yes/No |