

2023:PHHC:161147
IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-60915-2023
Date of Decision: 15.12.2023

NITIN KUMAR

...Petitioner

Versus

STATE OF HARYANA AND ANOTHER

...Respondents

CORAM:- HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present:- Mr. Ketan Antil, Advocate
for the petitioner.

HARPREET KAUR JEEWAN, J. (ORAL)

1. Prayer in the present petition under Section 482 Cr.P.C. is for setting aside the order dated 06.11.2023 (Annexure P-9), whereby the bail granted to the petitioner was cancelled in FIR No.697 dated 14.12.2022 registered under Sections 313, 323, 376, 377, 406, 498-A, 506 and 34 IPC at Police Station Sonipat City, Sonipat.

2. Learned counsel for the petitioner *inter alia* contends that the petitioner was granted protection under Section 438 Cr.P.C. vide order dated 11.01.2023 (Annexure P-2) passed by Additional Sessions Judge, Fast Track Court, Sonapat. While granting the said protection, the petitioner-husband made a statement before the Court that he had provided his house No.2/541, Prabhu Nagar, Sonipat to respondent No.2-wife to reside with his minor children. He also gave an undertaking to pay a sum of Rs.18,000/- per month to respondent No.2-wife as maintenance and further agreed not to create any hurdle and if he breaches any of the condition, in that event, his bail shall be rejected. Respondent No.2-wife had also suffered a statement that she would allow her husband-petitioner to meet with her children from 8 a.m. to 9 a.m. once in a week.

3. Learned counsel for the petitioner further contends that the petitioner was complying with the said conditions by paying monthly maintenance of

Rs.18,000/- per month to respondent No.2-wife. However, he stopped making the said payment, when a petition under Section 125 Cr.P.C. was filed by the respondent No.2-wife.

4. After arguing for some time, learned counsel for the petitioner further submits that petitioner may be granted 2 weeks time to clear the entire arrears, in terms of his undertaking recorded in order dated 11.01.2023 (Annexure P-2) and would continue to abide by his undertaking recorded in the said order. However, he would challenge the petition under Section 125 Cr.P.C. filed on behalf of respondent No.2-wife by raising a contention that he is already paying the maintenance in terms of the aforesaid order.

5. In view of the above submissions made by learned counsel for the petitioner, the impugned order dated 06.11.2023 (Annexure P-9) is set aside, subject to the condition that the petitioner shall appear before the trial Court within a period of 2 weeks from today and would clear the arrears as per his undertaking recorded in the order dated 11.01.2023 (Annexure P-2), by way of presenting a demand draft of the arrears in favour of respondent No.2-wife before the trial Court. On doing so, he shall be released on bail, on his furnishing adequate bail and surety bonds to the satisfaction of the arresting officer and shall also comply with the conditions stipulated in Section 438(2) of the Cr.P.C, failing which the present order shall be deemed to be cancelled without further reference to this Court.

6. The present petition stands disposed of with the liberty to challenge the petition under Section 125 Cr.P.C., in terms of above submissions.

(HARPREET KAUR JEEWAN)
JUDGE

15.12.2023

P.Bhatt

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No