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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-1477-2023 (O&M)

Date of Decision: 01.02.2024

NISHANT CHOUDHARY

.. Petitioner

Vs.

STATE OF PUNJAB

..Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Mandeep Singla, Advocate for the petitioner.

Mr. Adhiraj Singh Thind, AAG, Punjab.

Mr. Neeraj Madaan, Advocate for the complainant.

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SUMEET GOEL, J. (Oral)

1. This petition has been filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in FIR No.106 dated 22.12.2022, registered at Police Station Khui Khera, District Fazilka, under Sections 406 and 498-A of Indian Penal Code, 1860.

2. On 12.01.2023, the following order was passed:-

Through instant petition under Section 438 of Code of Criminal Code, 1973, the petitioner is seeking anticipatory bail in FIR No.106 dated 22.12.2022 (Annexure P-1), registered at Police Station Khui Khera, under Sections 406 and 498A of Indian Penal Code, 1860.

Learned counsel for the petitioner inter alia contends that parents of the petitioner had spent a sum of Rs.30 lakhs to purchase gold and other articles which were given to the complainant which shows that there was no occasion of demand of dowry on the part of petitioner and his family members. The petitioner had already produced bills before Investigating Officer. The police in preliminary investigation had found mother of the petitioner innocent even though general allegations were made against her. The petitioner has enclosed audio recording of talk between petitioner, his mother and complainant which shows that complainant was

demanding car which petitioner denied on the ground that immediately they are not having funds but would purchase as soon as he will get new job. The CCTV footage of 28.08.2022 indicates that complainant had gone with her parents with her consent and there is no harassment on the part of petitioner. The petitioner is innocent person and he has not committed the alleged offence. The petitioner is not involved in any other offence. The petitioner is permanent resident of Rajasthan and staying with his family members. The petitioner is ready to join investigation and face trial. There is no possibility of flee from justice. The arrest would cause irreparable loss, mental agony, embarrassment and humiliation to petitioner as well entire family.

Notice of motion returnable for 24.02.2023.

Mr. Amish Sharma, AAG, Punjab, who is present in court on advance notice, seeks time to file status report.

*Meantime, keeping in mind law enunciated by Hon'ble Supreme Court in **Thana Singh v. Central Bureau of Narcotics**, (2013) 2 SCC 590, **Arnab Manoranjan Goswami V. State of Maharashtra**, (2021) 2 SCC 427, **Satender Kumar Antil V. CBI** (2022)10 SCC 51, **Siddharam Satlingappa Mhetre V. State of Maharashtra & Ors.**, 2010 SCC OnLine SC 1375, **Shri Gurbaksh Singh Sibbia V. State of Punjab** (1980) 2 Supreme Court Cases 565, **Arnesh Kumar V. State of Bihar** (2014) 8 SCC 273, at the first instance, the petitioner is directed to appear before investigation officer on 19.01.2023 and thereafter as directed by IO. In the event of arrest, the petitioner shall be admitted to interim bail on furnishing of bail/surety bonds to the satisfaction of investigating/arresting officer. The petitioner shall co-operate the investigating officer.*

If the arresting officer does not permit the petitioner to join the investigation, the petitioner would appear before the learned Illaqa Magistrate who would then summon the arresting officer and direct him to join the petitioner in investigation, in terms of the order of this Court.”

3. Learned State counsel, on instructions from ASI Birbal, has stated that pursuant to the order dated 12.01.2023, the petitioner has joined investigation and is no longer required for custodial interrogation. However, the entire dowry articles have not yet been recovered.

4. Learned counsel for the complainant pleads that the petitioner is intentionally not handing over the entire dowry articles and is evading to do so.

5. Faced with such situation, learned counsel for the petitioner states that the entire dowry articles have been handed over by him.
6. However, in order to lend quietus to the aspect of recovery of dowry articles for the present, the petitioner will deposit a sum of Rs.1,00,000/- with the learned Illaqa Magistrate within six weeks from today. On his doing so, learned Illaqa Magistrate will release the same in favour of the complainant upon due identification. This shall be without prejudice to rights and contentions of rival parties.
7. In view of above, the interim order dated 12.01.2023 passed by this Court is made absolute, subject to the conditions as enumerated under Section 438(2) Cr.P.C.
8. This order should not be treated as “blanket” order. It will not be read granting petitioner indefinite protection from arrest. It shall be confined to the FIR mentioned *ibid* and will not operate in respect of any other incident that involves commission of an offence.
9. Liberty is reserved in favour of State/complainant to move for cancellation/recall of this order in case the petitioner violates any condition stipulated under Section 438(2) Cr.P.C., 1973 or upon showing any other sufficient cause.
10. Needless to say that anything observed herein above shall not be construed to be an opinion on the merits of the case.
11. Pending application(s), if any, shall also stand disposed off.

01.02.2024

(SUMEET GOEL)

Jasmine Kaur

JUDGE