

2024:PHHC:051094

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

CRM-M-3538-2024
Date of Decision : April 15, 2024

Sandhya Arora
.....Petitioner

VERSUS

State of Punjab and another
.....Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. G.B.S.Dhillon, Advocate
for the petitioner.

Mr. Raghav Garg, AAG, Punjab.

KULDEEP TIWARI, J. (Oral)

1. On the last date of hearing, i.e. 23.1.2024, the following
order was passed:-

*“Through the instant petition, as instituted under
Section 438 of the Cr.P.C., the petitioner(s) has sought
the concession of being enlarged on anticipatory bail,
arising out of the common FIR No.107 dated
06.12.2023, under Sections 342, 454 and 120 of the IPC,
registered at Police Station Division No.3, Police
Commissionerate Jalandhar, District Jalandhar.*

*On the oral request of learned counsel for the
petitioner, complainant Jaswinder Singh Bedi is
impleaded as respondent No.2. Learned counsel for the
petitioner is directed to place on record the amended
memo of parties, with the registry of this Court, today
itself.*

*It is a case where the complainant, who is the
husband of Shagun Arora, filed the instant complaint to*

the Police, upon which the prosecution agency was brought into motion, wherein, the allegation levelled on 03.12.2023, that Shagun Arora wife of the complainant, mother-in-law, and father-in-law of the complainant, in connivance with each other, had stolen the jewellery articles, as well as the cash amount, which was lying in the wardrobe of the complainant.

Learned counsel for the petitioner submits that, it is a classical case, where, the complainant, who is a practicing Advocate, pre-empting that a complaint might be filed by the wife of the complainant, qua giving merciless beatings on 02.12.2023. Learned counsel for the petitioner further submits that the complainant has concocted this story without any legal evidence, and thereupon, the present FIR has been registered. Learned counsel for the petitioner also submits that the audio chat, inter se, the accused party and the complainant, wherein, the facts of giving beatings to Shagun Arora, by the complainant, was being discussed in the aforesaid chat. Learned counsel for the petitioner further submits that the only evidence upon which the prosecution agency is relying upon, is the CCTV footage, which shows that Shagun Arora, is exiting the house with a bag, along with her mother, and the tower location suggests that the father-in-law, was roaming around the house. Learned counsel for the petitioner further submits that since Shagun Arora, was given merciless beatings, by the complainant, and she called her parents to take her home, as she doesn't want to reside with the present complainant, Shagun Arora collected her daily items, and went back to her parents house, and this incident of leaving the house was concocted as the incident of committing the offence of stealing.

Mr. Gaurav Garg Dhuriwala, Sr. DAG, Punjab, who is in receipt of advance notice appears on behalf of the respondent-State, opposed the grant of prearrest bail to the petitioner, on the ground that the partial investigation has already been carried out, wherein, the receipts of purchase of gold articles belonging to the complainant, mother, and sister, has been submitted to the Investigating Officer. Apart from that, the CCTV footage is already taken into custody. Learned State counsel further submits that so far as the incident of beating is concerned, there is no MLR, which could substantiate the defence, which is taken by the petitioner, through the instant petition.

Notice of motion.

Let notice be issued to respondent No.2 for 15.04.2024, on furnishing of requisite process fee.

Be that as it may be, this Court is of the prima facie view that the matrimonial dispute, has been given a colour of a criminal incident of theft. The marriage between the complainant, and one of the petitioner Shargun Arora, was solemnized on 08.07.2021, and this is the second marriage of the complainant. Even the perusal of the whatsapp chat reveals that the matrimonial relationship between the complainant, and one of the petitioner Shargun Arora, were not smooth. Without further going into the merit of the matter, this Court deems it appropriate to grant the relief of pre-arrest bail to the petitioner(s), subject to his/her furnishing personal and surety bond to the satisfaction of the Arresting/Investigating Officer concerned. The petitioner(s) shall, however, join the investigation as and when called for and shall also abide by the conditions specified under Section 438(2) of the Cr.P.C.

A photocopy of this order be placed on the file of the connected case.”

2. Learned counsel for the petitioner, at the very outset submits that during the pendency of the instant petition, the matter has been amicably settled between the parties concerned and now a divorce petition under Section 13-B of the Hindu Marriage Act, has also been preferred by both the parties concerned.

3. On the other hand, learned State counsel submits that though the petitioner has joined the investigation, yet no recovery has been effected from the petitioner.

4. Learned counsel for the petitioner submits that since the matter has been compromised *inter-se* the parties, the question of recovery would not arise at all. He has placed on record copy of the petition, which has been preferred before the Family Court under Section 13-B of the HMA, as Annexure-A.

5. In view of the above, the present petition is **allowed** and order dated 23.1.2024 is, hereby, made absolute subject to the condition that the petitioner shall abide by the conditions as envisaged under Section 438(2) Cr.P.C. It is further made clear that in case the compromise is not fully effected and any grievance left with the complainant, the complainant can get revived the instant petition by moving appropriate application.

April 15, 2024
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(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No