

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

202

CRM-M No.3322 of 2020
Date of decision: 05.03.2024

Dinesh ... Petitioner

Vs.

State of Haryana and another ... Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Vijay Sangwan, Advocate,
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana,
for the respondent-State.

Mr. Nihul Pratap Singh, Advocate,
for respondent No.2.

MANISHA BATRA, J.

1. The present petition under Section 438 of Code of Criminal Procedure has been filed by the petitioner seeking anticipatory bail in case bearing FIR No.584, dated 15.11.2019, registered under Sections 406, 498-A, 120-B and 34 of IPC at Police Station City Mahendergarh, District Mahendergarh.
2. Brief facts relevant for the purpose of disposal of this petition

Neutral Citation No.2024:PHHC:035117

are that the aforementioned FIR had been registered on the basis of complaint lodged by the complainant Niru Soni on 15.11.2019 alleging therein that she was married with the petitioner on 01.05.2019. Though before marriage, no demands were made but soon before the date fixed for marriage, the petitioner and his family members had raised demand of a sum of Rs.10 lacs on the pretext that there was no space to keep new household articles in their Government accommodation. Demand of Rs.10 lacs for purchasing a car and other items had also been raised. The father of the petitioner had given an amount of Rs.10 lacs, five days before the marriage, after making arrangements for the same. Soon after her marriage, her dowry was kept by her mother-in-law. She alleged that she had found the petitioner chatting with some girl and on asking, he had disclosed that he was in love with one Vandana and had even performed marriage with her in a temple. She was subjected to cruelty on account of demand of dowry by the petitioner and his family members. She had become pregnant but the behaviour of her in-laws kept on worsening. She alleged that on 05.06.2019, she was running high fever and when her father had visited and took her to his house, she had started bleeding on 06.06.2019 and suffered miscarriage. She prayed for taking action against the petitioner and his family members by alleging that the factum of his previous marriage was concealed by them. They had caused her miscarriage by administering her something and that she had been subjected to mental as well as physical cruelty on account of demand of dowry and her dowry articles were misappropriated by the petitioner and

his family members. After registration of FIR, investigation proceedings were started and are going on.

3. It will not be out of place to mention here that after filing of the instant petition, initially the arrest of the present petitioner was ordered to be stayed and then vide order dated 16.08.2021, he was directed to join investigation and was further directed to be released to interim bail on his joining the same subject to furnishing personal/surety bonds to the satisfaction of the investigating agency. On 07.12.2023, learned counsel for respondent No.2-complainant placed on record copy of order dated 19.05.2023 as passed by the Court of learned Sub Divisional Judicial Magistrate, Mohindergarh who is the Illaqa Magistrate whereby, benefit of regular bail had been extended by him to the present petitioner. As, the present application was pending, therefore, a report had been called from the concerned officer as to how and in what manner, benefit of regular bail had been extended to the petitioner during the pendency of the anticipatory bail application before this Court. As per the report sent by the concerned Judicial Magistrate, the present petitioner was produced before him as on 19.05.2023 along with the challan report. Learned counsel for the petitioner had mentioned in the application for grant of regular bail as filed by him at the same time that no application of the petitioner was pending before any Court and it was in those circumstances, the benefit of regular bail was extended by him to the present petitioner.

4. Now the question that arises for consideration is as to whether

Neutral Citation No.2024:PHHC:035117

the petitioner deserves to be granted any relief from this Court in view of the circumstances as narrated above. In my considered opinion, the answer should be in the negative. Obviously, it was very much within the knowledge of the present petitioner that he had only been extended benefit of interim anticipatory bail vide order dated 16.08.2021 and that order had not been made absolute till date. As such, by moving application before the learned Illaqa Magistrate that no other application of the petitioner was pending, he managed to secure the benefit of regular bail from the trial Court. The well settled proposition of law is that when interim anticipatory bail is granted to an accused, then there can be no occasion for him to appear and surrender before the trial Court and seek regular bail because if that is so, then, even if the plea of anticipatory bail is ultimately dismissed, the regular bail granted by the subordinate Court would continue to hold the field. Reliance in this regard can be placed upon the observations made by Hon'ble Supreme Court in **Rukmani Mahato v. State of Jharkhand**, 2017 (15) SCC 574, wherein similar observations were made.

5. Learned counsel for the respondent-complainant has also placed on record copy of order dated 19.05.2023 passed by the Court of learned Illaqa Magistrate showing that the petitioner has been admitted to regular bail. Since the factum that his application for grant of pre arrest bail was pending before this Court and he has been extended only benefit of anticipatory bail had been concealed by the petitioner before the trial Court and this fact was not even mentioned in the application filed by

Neutral Citation No.2024:PHHC:035117

him on 19.05.2023, therefore, it is crystal clear that with some mala fide and intentionally, the petitioner by surrendering before the trial Court sought benefit of regular bail. As such, he does not deserve to be granted relief of pre arrest bail. He might have joined the investigation and his custodial interrogation might not have been required by the investigating agency but that by itself is not a ground to seek concession of anticipatory bail as a matter of right by the petitioner. With these observations, the present petition is dismissed. It is also ordered that since the petitioner by concealing the factum of pendency of this petition has sought grant of regular bail, therefore, the order granting regular bail can also not sustained. Accordingly, the present petition is dismissed. The order of regular bail as granted by learned trial Court on 19.05.2023 is also ordered to be recalled and it is directed that the petitioner shall surrender before the trial Court within a period of 15 days from today failing which the police will be at liberty to apprehend him and take him in custody. It will, however, be open for him to move application for regular bail as and when required once he is in custody and the learned trial Court will consider the said application on its own merits unaffected by the observations as made above.

05.03.2024
manju

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No