

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

203

CRM M-5370 of 2022
Date of Decision: 08.04.2024

Ram Gopal ...Petitioner
Vs.
State of Punjab ...Respondents

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Akshay Jindal, Advocate, for the petitioner.
Mr. Deepinder Brar, Sr. DAG, Punjab.
Ms. Vandana, Advocate, for the complainant.
Complainant Ram Gopal in person.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the present petition under Section 438 Cr.P.C. for grant of anticipatory bail to him in case FIR No. 418 dated 23.10.2021 under Sections 177, 182, 193, 209, 465, 471, 494, 467, 468, 420 and 120-B of IPC registered at Police Station Division No. 5, Luthidana.
2. While issuing notice of motion, a Co-ordinate Bench of Court had noticed the following contentions made by the learned counsel for the petitioner:-

“Counsel for the petitioner has urged that marriage of the petitioner was solemnized with the complainant on 17.06.2009 and the parties lived together for barely one

year. He submits that till the year 2015, no complaint was lodged by the complainant before any forum. He submits that the petitioner filed a petition seeking divorce in the year 2018, the complainant was proceeded ex parte on 20.02.2019 and an ex parte decree of divorce was passed on 03.10.2019. He submits that ten months later, the petitioner re-married on 21.08.2020 and a child was born out of the wedlock. It is his argument that on coming to know of the re-marriage of the petitioner, the complainant filed an application on 09.09.2020 seeking setting aside of the ex parte order, which was allowed on 10.11.2021, Annexure P-3. Counsel submits that the said order has been challenged by the petitioner before this Court by filing CR-189-2022, wherein this Court vide order dated 02.02.2022, Annexure P-4, has stayed the operation of the impugned order and issued notice to the complainant for 17.05.2022. Counsel submits that FIR has been registered against the petitioner on false allegations to settle personal scores.”

3. During the course of arguments, learned counsel for the petitioner has reiterated the aforesaid submissions before this Court, as well.

4. Learned counsel for the petitioner submitted that the present complainant is bent upon to implicate the petitioner, in order

to having him arrested and filed numerous false complaints/applications before different legal forums. He further contended that even the petitioner had joined the investigation after the registration of the FIR and the offences being bailable, he was ordered to be released on bail. However, the police added the non-bailable offences in the present case, only with the *malafide* intention of harassing the petitioner. Learned counsel further submitted that the non-bailable offences, i.e., under Sections 467, 468, 420 and 120-B IPC were added with a *malafide* intention and the entire process of investigation reeks of *malafide*. He further contended that the multiple proceedings have been instituted by the complainant, which are indicative of the fact that the complainant was knocking on every door with a view to harass and humiliate the petitioner. Learned counsel further contended that even in the facts of the present case, the custodial interrogation of the petitioner cannot be required as the entire case hinges on documentary evidence.

5. On the other hand, learned State counsel submitted that in compliance of the interim orders passed by this Court from time to time, the petitioner had joined the investigation and had fully cooperated with the Investigating Agency. Learned State counsel further submitted that further custodial interrogation of the petitioner was not required in the present case as he had cooperated with the police.

6. Learned counsel for the complainant and complainant in person, were heard at length during the course of hearing. Learned counsel submitted that the petitioner had not disclosed the facts in his bail application that he was parallelly pursuing the divorce petition nor he had stated the complete facts in the case under the provisions of Protection of Women from Domestic Violence Act 2005. Learned counsel further submitted that the petitioner had filed divorce petition on 27.04.2018 on the ground of cruelty and desertion, behind the back of the complainant by deliberately giving incorrect address of the complainant whereas he was well aware of the said address. Learned counsel further submitted that the complainant came to know on inquiry that the petitioner had deliberately and fraudulently furnished the incorrect address of the complainant in the petition and had committed fraud with the complainant as well as the Court. She further submitted that the present FIR was got registered by the complainant after the complete inquiry was held in the present case. She further contended that keeping in view the gravity of the matter, the petitioner was not entitled to the relief of anticipatory bail by this Court.

7. I have heard the learned counsel for the parties and perused the record.

8. During the course of arguments, it has come on record that the arrest of the petitioner was stayed by this Court on 09.02.2022 and during the pendency of the bail petition for more than 02 years

before this Court, the petitioner had joined the investigation repeatedly. Even, the learned State counsel has clearly stated before the Court that during the course of investigation, the petitioner had fully cooperated with the Investigating Agency and his custodial interrogation was no longer required by the police. Apart from that, the allegations levelled by the complainant against the petitioner are yet to be established by her during the course of investigation. However, in the considered opinion of the Court, the custodial interrogation of the petitioner may not be required, at this stage. Even, the documentary evidence which is the basis of the present case has already been taken in possession by the police. Thus, no purpose will be served by sending the petitioner behind the bars.

9. Without commenting any further on the merits of the case, the present petition is allowed. The petitioner is granted concession of anticipatory bail, subject to the conditions as provided under Section 438(2) of the Cr.P.C. It will be open for the Investigating Officer to call the petitioner to join investigation, if so required, by issuing a written notice in this regard and he shall abide by the conditions mentioned in Section 438(2) of the Cr.P.C.

08.04.2024

(N.S.SHEKHAWAT)

amit rana

JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No