

CRM-M-6205-2022 (O&M)

2024:PHHC: 060559 - 1 -

206 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-6205-2022 (O&M)

DATE OF DECISION : 02.05.2024

GURPREET SINGH

... PETITIONER

V/S

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. G.S.Nahel, Advocate for the petitioner.

Ms. Himani Arora, A.A.G., Punjab.

Ms. Jai Shree Kaushik, Advocate for
Mr. Amit Kumar Walia, Advocate for the complainant.

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HARPREET KAUR JEEWAN, J. (ORAL)

1. The instant petition has been filed under Section 438 Cr.P.C for grant of anticipatory bail to the petitioner in case FIR No. 13, dated 28.12.2021, under Sections 498-A, 406 of IPC, registered at Women Police Station, Malerkotla, District Malerkotla.
2. Learned counsel for the petitioner contends that the petitioner has joined the investigation in compliance of the order passed by this Court and recovery has been effected.
3. Learned counsel for the complainant has opposed the bail application on the ground that academic certificates and other documents have not been returned to the complainant.
4. On 14.02.2022 following order was passed:

“xxxx Learned counsel for the petitioner inter alia contends that prior to the registration of the FIR not even once had any complaint been made by the complainant qua the allegations, which find reflected in the FIR in question. Learned counsel submits that it was on account of some trivial misunderstandings between the parties qua some message

received by the complainant about the petitioner's alleged illicit relations with some woman, she planted the instant case on him.

Learned counsel further submits that the petitioner earnestly wanted to reconcile with the complainant-wife and it was precisely for this reason, he had also filed a petition under Section 9 of the Hindu Marriage Act, 1955. Further submits that the parties are blessed with a child and hence, he would not be averse to exploring the possibility of reconciliation/amicable settlement with the complainant-wife.

Notice of motion for 25.07.2022.

The parties are directed to appear before the Mediation and conciliation Centre of this Court on 21.03.2022. Needless to say that parties shall remain present on each and every date fixed by the Forum.

The petitioner shall pay a sum of Rs. 30,000/- to the complainant-wife on her appearance before the said Forum on the date fixed.

Meanwhile, no coercive steps be taken against the petitioner only till the next date of hearing.”

5. On 25.07.2022 specific direction was given to the petitioner to join the investigation on 02.08.2022 at 11:00 A.M. by passing the following order after the mediation failed.

“Mr. Amit Kumar Walia, Advocate has put in appearance on behalf of complainant and has filed Memorandum of Appearance, which is taken on record.

Report has been received from the Mediation and Conciliation Centre of this Court that the proceedings have not yielded any result.

Upon instructions received from ASI, Harpreet Singh, State counsel submits that recovery has to be effected from the petitioner.

Petitioner is directed to appear on 02.08.2022 at 11:00 A.M. at Women Police Station, Malerkotla, District Malerkotla and join the investigation. In the event of arrest, he shall be admitted to interim bail on his furnishing personal and surety bonds to the satisfaction of Arresting/Investigating Officer. He shall also abide by the conditions as specified under Section 438 (2) Cr.P.C.

At this stage, counsel for the complainant submits that Academic Certificates, Passport, Aadhar Card, Pan Card and Voter Card as well as other official documents of the complainant and her child are in the possession of the petitioner, which he has not returned.

Petitioner is directed to return the same on the day he joins the investigation.

List on 19.10.2022.”

6. Today learned State counsel, on instructions from SI Jagjit Singh, has confirmed that all the documents including the academic certificates, passport, Aadhar card, PAN card and Voter ID card have been got recovered by the petitioner and complainant can take these documents on Superdari from the investigating agency. The confirmation regarding the recovery of these documents has also been recorded in the order dated 19.07.2023.

7. As per the order dated 19.07.2023, learned State counsel, upon instructions from ASI Anayat Kaur, submitted that recovery of gold ornaments and some dowry articles is still to be made from the petitioner. However, it was submitted that these gold ornaments have been mortgaged in lieu of a loan and verification thereof, is required and following order was passed:-

“On instructions ASI Anayat Kaur, it is submitted by learned counsel for the State that in compliance of the last order dated 22.03.2023, the petitioner has handed over all the relevant documents to the Investigating Officer. However, recovery of gold ornaments and some dowry articles is still to be made from the petitioner. It is further submitted that it is the case of the petitioner that the gold ornaments have been mortgaged in lieu of a loan and verification thereof, is required.

In view of the above, the petitioner is again directed to re-join the investigation within a week from today or any other date and time as directed by the Investigating Officer.

Adjourned to 24.11.2023.

Interim order to continue till the next date of hearing.”

8. Today learned State counsel, on instructions from SI Jagjit Singh, has verified that these gold ornaments have been mortgaged by the complainant who has taken a loan. However, as per the allegations the loan amount was utilised by the petitioner.

9. The allegations and counter-allegations of the parties are a matter of trial. The petitioner has joined the investigation. Recovery of material documents has been effected. So far as the allegations of utilisation of amount by the petitioner, which was taken by the complainant as a loan, is concerned, it would be adjudicated upon by the trial Court.

10. In view of the aforesaid facts and circumstances of the case and the reasons recorded in the order dated 14.02.2022 and 25.07.2022 and keeping in view the fact that the petitioner has joined investigation, his custodial interrogation is not required by the Investigating Agency, the present petition is allowed and the order dated 25.07.2022 granting interim bail to the petitioner is made absolute, subject to the conditions laid down in Section 438(2) Cr.P.C.

11. However, it is made clear that nothing expressed hereinabove would be construed to be an expression of opinion on merits of the case.

02.05.2024

Janki

**(HARPREET KAUR JEEWAN)
JUDGE***Whether speaking/reasoned : Yes/No**Whether reportable : Yes/No*