

CRM-M-11244-2023

Balwinder Singh

....Petitioner

State of Punjab

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Abhijeet Sharma, Advocate for
Mr. P.S. Ahluwalia, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

This petition has been filed under Section 438 Cr.P.C. seeking anticipatory bail in case bearing FIR No.135 dated 25.11.2022 (Annexure P-1) under Sections 313/315/341/154/323/506/34 of IPC registered at Police Station Moonak, District Sangrur.

On 03.03.2023, the following order was passed:-

‘The present petition is for grant of anticipatory bail to the petitioner in FIR No. 135 dated 25.11.2022, under Sections 313, 315, 341, 154, 323, 506 and 34 of Indian Penal Code, at Police Station Moonak, District Sangrur.

Learned counsel for the petitioner submits that after the date of incident i.e., on 14.10.2021, the victim made a statement alleging that the petitioner had pushed her, due to which she fell down. Learned counsel for the petitioner vehemently relies upon the statement of the victim made on 15.10.2021, to submit that the victim did not even make a whisper about her pregnancy. However, subsequently, while filing the complaint under Section 156(3) Cr.P.C., the story of her pregnancy and miscarriage of the victim, was narrated, however, in

the said complaint also, the allegations against the present petitioner were diluted and the only allegation against the petitioner was that he slapped the victim. Learned counsel further relies upon medical report to submit that the alleged injury caused cannot lead to the miscarriage of the pregnancy. He further submits that the real bone of contention is the land dispute, for which the maternal grandfather of the victim had already lodged an FIR in the year 2017, against the complainant and her husband and, lastly, he submits that the said issue has also come to forth as during the pendency of the petition under Section 156(3) Cr.P.C and before the lodging of an FIR, a civil suit had already been filed by the complainant on 08.03.2022.

Notice of motion.

Mr. Arun Gupta, AAG, Punjab, accepts notice on behalf of the State.

At this stage, Mr. Rajat Arora, Advocate has put in appearance on behalf of the complainant and filed his Power of Attorney, which is taken on record.

Per contra, learned State counsel, on instructions from ASI Gulzar Singh, has vehemently opposed the bail and submitted that it is the overall effect of the incident, which led to the miscarriage and a role of all the parties has to be seen collectively. He further submits that all the accused have jointly created pressure on the date of incident, which could also be a reason of the miscarriage, which occurred later in time.

Learned counsel for the complainant has also argued on the same lines.

Learned counsel for the petitioner has also argued that the allegations levelled against the petitioner do not attract the imposition of Section 313 and 315 of Indian Penal Code and, hence, the petitioner should be considered for grant of anticipatory bail.

Having heard learned counsel for the parties, I am of the view, that the statement recorded by the victim on the first date could have been in the under pressure or under stress of the incident itself, however, the complainant herself in the petition under Section 156(3) Cr.P.C. has diluted the allegation upon the present petitioner for slapping her, which could not be an action for the miscarriage.

In the light of the above and after considering the entirety of the matter, however, without commenting on the merits of the case, the

petitioner is directed to join investigation on 10.03.2023 at 10:00 A.M. before the Investigating Officer and cooperate with the Investigating Agency even thereafter.

In the event of arrest, the petitioner be released on interim bail subject to furnishing personal/surety bonds to the satisfaction of the Arresting/Investigating Officer and the petitioner shall abide by the conditions as envisaged under Section 438 (2) Cr.P.C.

Adjourned to 10.07.2023.

Learned counsel for the complainant submits that there is every likelihood of the petitioner inducing the witnesses and creating pressure. However, in case, any such act or conduct is brought out by the complainant, the counsel for the complainant is at liberty to file an appropriate application before the Authorities and if required, before this Court, to consider the same on its own merits.'

Learned State counsel on instructions from ASI Gurbhej Singh, at the very outset informs the Court that the petitioner has joined the investigation and his custodial interrogation is not required.

In view of the statement of learned State counsel, order dated 03.03.2023 is hereby made absolute. The petitioner shall abide by the terms and conditions envisaged under Section 438(2) Cr.P.C.

The petition stands disposed of.

(HARPREET SINGH BRAR)
JUDGE

04.04.2024
Neha

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No