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207 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-15153-2022 (O&M)
DATE OF DECISION : 02.05.2024

AJAY ... PETITIONER

V/S

STATE OF HARYANA AND ANOTHER ... RESPONDENTS

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. S.S.Majithia, Advocate for the petitioner.

Mr. Amrik Singh Narwal, D.A.G., Haryana.

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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. 30 dated 28.02.2022 registered at Police Station Women, Jind, under Sections 323/406/498-A/506/34 IPC (Section 328 IPC deleted and Section 377 IPC, 1860 added).

2. Learned counsel for the petitioner contends that the petitioner has joined the investigation in compliance of the order passed by this Court. As per order dated 01.08.2022, it was pointed out that offence under Section 328 & 377 IPC have been deleted and FIR is an outcome of matrimonial dispute and the following order was passed:-

“Counsel for the complainant/respondent No.2 submits that in terms of order passed by this Court on 26.04.2022, the Demand Draft of Rs.50,000/- has been released.

FIR is an outcome of a matrimonial dispute, although allegations have been levelled attracting offences under Section 328 of IPC as well as Section 377 of IPC, but upon instructions from Inspector Geeta, State counsel submits that both these offences have been deleted.

List on 25.01.2023.

Meanwhile, the petitioner shall join the investigation on 08.08.2022 at Women Police Station, Jind at 11.00 am and co-operate with the Investigating Agency. In the event of his arrest, he will be released on interim bail on his furnishing personal and surety bonds to the satisfaction of the Investigating Officer/Arresting Officer subject to the conditions as envisaged in Section 438 (2) of the Code of Criminal Procedure. ”

3. Subsequent to that, vide order dated 27.03.2023 following order was passed:-

“xxx Learned State counsel submits that recovery has been effected. However, learned counsel for respondent No.2 specifically submits that the gold ornaments and the car etc. have not been recovered.

Accordingly, the petitioner is directed to rejoin the investigation on 12.04.2023 at 10:00 A.M. or on any other date/time as called by the Investigating Officer and cooperate with the Investigating Agency and the Investigating Officer is directed to file a status report detailing out the recoveries effected and the allegations levelled in the FIR.

Adjourned to 25.07.2023.

Interim order to continue.

Since, the counsel for the petitioner is not present, copy of this order be served upon him for compliance.”

4. Today learned State counsel, on instructions from ASI Usha, has confirmed that the petitioner has joined investigation. However, complete recovery has not been effected . As per the status report by way of affidavit of ASI Sudesh No. 735/Jind, Police Station Women Jind, on 09.06.2022 the opinion of the Medical Officer regarding the allegations of unnatural sex was obtained and on the basis of the said opinion, the offence under Section 377 IPC was deleted.

5. In view of the aforesaid facts and circumstances and the reasons recorded in the order dated 01.08.2022 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

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order dated 01.08.2022 granting interim bail to the petitioner is made absolute, subject to the conditions laid down in Section 438(2) Cr.P.C.

6. 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