



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

201

CRM-M-18910-2024

Date of Decision: 13.05.2024

Neeta Walyat @ Neeta Rani and another

.... Petitioners

Versus

State of Punjab

.... Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Aalok Jagga, Advocate for the petitioners.

Ms. Aakanksha Gupta, AAG, Punjab.

Mr. Namit Gautam, Advocate for the complainant.

NIDHI GUPTA, J. (ORAL)

The petitioners who are parents-in-law of the complainant have filed the present 1st petition under Section 438 Cr.P.C., seeking anticipatory bail in case FIR No. 21 dated 14.02.2024 registered under Sections 406 and 498-A IPC at Police Station Division No. 1, Jalandhar.

On 19.04.2024, when this case was listed for hearing, following order was passed by this Court:-

“Prayer in the instant petition filed under Section 438 Cr.P.C. is for seeking concession of anticipatory bail to the petitioners in FIR No. 21 dated 14.02.2024 registered under Sections 406 and 498-A IPC at Police Station Division No. 1, Jalandhar (Annexure P-1).

Petitioners before this Court are the parents-in-law of the complainant. Learned counsel for the petitioners submits that the son of the petitioners was married to the complainant on 08.03.2023. It is stated that the parties stayed together only for four months. Although the



complainant had got pregnant during this period; however no child was born out of the wedlock. Learned counsel submits that the main allegation against the petitioner in the present FIR is that the petitioners had instigated abortion of the complainant. In this regard, reference has been made to writing of the complainant in the FIR (at page No. 21 of the paper-book) which reads as under:-

“14. That during the pregnancy period the complainant was tortured and harassed by all the accused. She had to face mental pressure and violence from the accused and because of all the said things, complainant became very weak emotionally, mentally and physically. Unfortunately, due to illegal acts of the accused the child in the womb of the complainant came to top of uterus and it became difficult for the child to survive and the life of the complainant also went in danger. Thereafter many doctors were consulted and it was decided by the complainant to get her pregnancy aborted.”

Learned counsel further refers to the ultrasound report dated 05.07.2023 (Annexure P-5) wherein it is recorded that the complainant was at the stage of “early pregnancy-cervical ectopic”. Learned counsel then refers to the medical journal extract (Annexure P-6) wherein it is stated that cervical ectopic pregnancy is described as a pregnancy that is not developed properly. In the journal, it is further stated that cervical ectopic pregnancy may occur “due to damage of the uterine cavity, which stops the normal implantation in the endometrium”. In the said journal, it is further recommended that “to prevent life-threatening complications, the cervical pregnancy needs to be removed or ceased immediately after detection”. Learned counsel contends that accordingly in these circumstances, as the complainant had cervical ectopic pregnancy, an abortion was carried out by the complainant. It is further submitted that the other allegations made against the petitioners in the said FIR are vague and general in nature; and the husband of the complainant also filed a petition under Section 9 of the Hindu Marriage Act (Annexure P-7). Learned counsel further refers to order dated 15.12.2023 passed by a Coordinate Bench of this Court whereby the complainant has filed transfer application bearing No. 1540 of 2023 to transfer the petition under Section 9 of the Hindu Marriage Act filed by the husband of the complainant (Annexure P-9). It is further stated in the said order it is noted that the complainant is willing to settle the dispute amicably and is open for mediation.

Notice of motion.

Mr. Kunwarbir Singh, Assistant Advocate General,



Punjab accepts notice on behalf of the respondent-State of Punjab. Mr. Namit Gautam, Advocate puts in appearance and files his power of attorney on behalf of the complainant in Court today which is taken on record.

Learned counsel for the complainant opposes the prayer for grant of anticipatory bail to the petitioners and submits that petitioners had blown hot and cold and made contradictory averments in the petition filed by them. Learned counsel for the complainant refers to para No. 6 of the present petition wherein it has been stated that parents of the complainant had come to the matrimonial home in the first week of July, 2023 and they wanted to take the complainant away to get her medical treatment conducted at Jalandhar as they reside in Jalandhar. Learned counsel for the complainant then refers to petition under Section 9 of the Hindu Marriage Act (Annexure P-7) filed by the husband of the complainant wherein in para No. 12 it is contradictorily stated that on 06.07.2023, the respondent/complainant herein finally deserted the petitioner and left her matrimonial house on the pretext to attend the marriage of her friend at Jalandhar. It is stated that accordingly the statements made by the petitioners are not to be believed.

In the meantime, the petitioners are directed to appear before the SHO/Investigating Officer to join investigation and in the event of their arrest, they shall be released on interim bail on their furnishing bail bonds to the satisfaction of SHO/Investigating Agency subject to the following conditions as envisaged under Section 438(2) Cr.P.C.

- i. that the petitioners shall make themselves available for interrogation before the Investigating Officer as and when required;*
- ii. that the petitioners shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer;*
- iii. that the petitioners shall not leave the country, without prior permission of the Court and shall surrender their passport, if any.*

Learned counsel for the State is directed to file an affidavit as to the exact role of the petitioners alongwith the details of pending FIRs, if any, on or before the next date of hearing.

List on 13.05.2024.”

Learned counsel for the petitioners submits that in compliance of the aforesaid order, the petitioners have joined the



investigation.

Reply/status report dated 13.05.2024, filed by way of affidavit of Sh. Daman Bir Singh, PPS Assistant Commissioner of Police (North), Police Commissionerate, on behalf of respondent-State is taken on record. A copy thereof, has been supplied to learned counsel for the petitioner.

On instructions from ASI Surjit Singh, learned counsel for the State submits that in terms of the order passed by this Court, reproduced above, the petitioners have joined the investigation on 07.05.2024 and are co-operating with the investigating agency, and no further interrogation is required, at this stage. Learned counsel for the State further refers to the submissions made in para No. 8 of aforesaid status report which enumerates the items of dowry articles recovered from the petitioners.

However, learned counsel for the complainant vehemently opposes the prayer for grant of anticipatory bail to the petitioners. The only argument raised by learned counsel for the petitioners is that though the petitioners have joined the investigation, however, still recovery of some more dowry articles is yet to be effected from them.

I have heard learned counsel for the parties.

Hon'ble the Supreme Court in **Bimla Tiwari vs. State of Bihar and others, Law Finder Doc ID # 2110551**, has held that "matter of grant of bail is not akin to money recovery proceedings", which has been relied upon by a co-ordinate Bench of this Court in its recent judgment dated 12.02.2024, passed in **CRM-M-60647-2023, 'Varun**



Sharma vs. State of Punjab and another'.

In view of the above, the order dated 19.04.2024 granting interim bail to the petitioners is made absolute.

However, the petitioners shall abide by the conditions stipulated under Section 438(2) Cr.P.C. They shall also join the investigation and co-operate with the investigating agency in case they are required for the same in future as and when called upon to do so.

In case, at any given point of time hereinafter, it is felt by the investigating agency that the petitioners are required for the investigation but are not cooperating, they will be at liberty to approach this Court for passing appropriate orders.

The petition stands disposed of.

Pending application(s), if any, shall also stand disposed of.

13.05.2024
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(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No