

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-20840-2023
Date of decision: 12th January, 2024

Nitesh

...Petitioner(s)

Versus

State of Punjab and another

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Pratham Sethi, Advocate for the petitioner.
Mr. M.S. Nagra, AAG, Punjab.

MANISHA BATRA, J (ORAL):-

The present petition has been filed under Section 438 of Cr.P.C.
seeking anticipatory bail in FIR mentioned below:-

FIR No.	Dated	Police Station	Sections
34	15.04.2023	Division-1, Pathankot	406, 417, 420, 495, 498-A, 506 and 120-B of Indian Penal Code, 1860 (For short 'the IPC, 1860')

2. Brief facts relevant for the purpose of disposal of this case are that a complaint on the basis of written complaint filed by the complainant Bhawna alleging therein that she had been residing in Pathankot during the period from 2011 to 2016, when she came into contact with the petitioner who was residing in the same house as a co-tenant. The petitioner entrapped her and on the pretext of performing marriage with her, he indulged her into sexual relationship. Subsequently, in the year 2021, when the talks of

marriage of the complainant started taking place in her family, she told the petitioner to perform marriage with him, though he refused to do so outrightly but subsequently, he had brought his family members to her house and during the lockdown period their marriage was performed on 24.04.2021. She alleged that soon after the marriage, the petitioner had started picking up fights with her on trivial matters. He had extracted whatever money she was having with her. She also noticed that he used to talk with some girl through Whatsapp calls. Later, she was shocked to know that he had already married with one Monika in the year 2015. While alleging that she had been cheated by the petitioner and had been subjected to cruelty as well as her money had been converted and misappropriated to his own use by the petitioner, she prayed for taking action against him on the basis of which, the aforementioned FIR had been registered. The petitioner had moved an application for grant of anticipatory bail before the learned Additional Sessions Judge, Pathankot which has been dismissed vide order dated 19.04.2023 .

3. It is submitted in this petition and learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case. Infact, he was in consensual relationship with respondent No.2 and a false complaint has been filed against him by respondent No.2 when there relations had turned sour. The subject offences were not made out against him. The offences under Sections 494 and 496 of the IPC, 1860 were bailable in nature. His custodial interrogation was not at all required. He was ready to join the investigation. Therefore, he has argued that the petition

deserves to be allowed.

4. The bail petition has been resisted by the State in terms of status report. It will be relevant to mention here that after filing of this petition, the petitioner was directed to join the investigation. It has been revealed from the status report as filed by the learned State counsel that petitioner has not been co-operating in the investigation. Learned State counsel has argued that the petitioner while being already married with one Monika concealed the factum of his formal marriage from respondent No.2/complainant and therefore committed an offence punishable under Section 495 of the IPC, 1860 which was punishable to the extent of ten years. The allegations made out against him are serious in nature. He is taking law for a ride. Hence, he has argued that petition does not deserve to be allowed.

5. I have heard learned counsel for the parties and have also gone through the material placed on record very carefully.

6. The petitioner is alleged to have solemnized marriage with respondent No.2 on 24.04.2021, during the subsistence of his marriage with one Monika. He is also alleged to have subjected her to physical as well as mental cruelty on account of demand of dowry. It appears from the status report that during the course of investigation, he had agreed to pay an amount of ₹ 5,00,000/- in the form of FDR to respondent No.2 but is not stated to have paid the same. It is for the trial Court to see that the petitioner had converted any property belonging to respondent No.2 to his own use and misappropriated the same. While deciding the bail application for grant of pre-arrest bail, the Court is to be guided by the nature of offence, likelihood

of his fleeing from justice, keeping in view the nature of the offences alleged to have been committed by the petitioner, the fact that he has joined investigation and his custodial interrogation is no more required, the quantum of sentence which may entail and the attendant facts and circumstances of the case but without meaning to make any comment on the case, I am of the considered opinion that the petition deserves to be allowed. In the event of his arrest, the petitioner shall be released on bail subject to his furnishing adequate personal/surety bonds to the satisfaction of the Arresting Officer. He is directed to join the investigation as and when called for. He shall abide by the conditions as envisaged under Section 438(2) Cr.P.C.

7. Since the main case has been allowed, pending application if any is rendered infructuous.

[MANISHA BATRA]
JUDGE

12th January, 2024
Parveen Sharma

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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |