

CRM-M-21761-2024

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2024:PHHC:066634



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

201-A

CRM-M-21761-2024

Date of Decision: 13.05.2024

Raghav Walyat

.... Petitioner

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 petitioner who is the husband of the complainant has 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 02.05.2024, when this case was listed for hearing, following order was passed by this Court:-

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

Petitioner before this Court is the husband of the complainant. Learned counsel for the petitioner submits that the petitioner 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 petitioner, alongwith other co- accused in the FIR, had instigated abortion of the complainant. In this regard, reference has been made to writing of the complainant in the FIR (at page No. 18 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 petitioner has 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 (Annexure P-9) 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. It is further stated in the order dated 15.12.2023 (Annexure P-9) as under :-

“xxx xxx

Counsel for the applicant further submits that since,



respondent has filed petition under Section 9 of the Hindu Marriage Act, 1955, he has shown his inclination to stay together, therefore, issue involved can be resolved before the Mediation and Conciliation Centre of this Court also.

xxx xxx xxx”.

Learned counsel for the petitioner also refers to the order dated 19.04.2024 (Annexure P-16) passed by this Court in CRM-M- 18910-2024, filed by co-accused of the petitioner, who are parents-in-law of the complainant, whereby this Court, on the similar set of allegations, has granted interim relief to the petitioners therein.

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 Memorandum of Appearance 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 petitioner and submits that petitioner had blown hot and cold and made contradictory averments in the petition filed by him. Learned counsel for the complainant refers to petition under Section 9 of the Hindu Marriage Act (Annexure P-7) filed by the petitioner 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 petitioner are not to be believed.

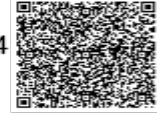
Learned counsel for the State also opposes the prayer made in the present petition for grant of interim bail to the petitioner on the ground that serious allegations have been leveled against him and seeks time to file reply in the matter.

Adjourned to 13.05.2024.

To be heard alongwith CRM-M-18910-2024.

In the meantime, the petitioner is directed to appear before the SHO/Investigating Officer to join investigation and in the event of his arrest, he shall be released on interim bail on his 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 petitioner shall make himself available for interrogation before the Investigating Officer as and when required ;*
- ii) that the petitioner 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 petitioner shall not leave the country, without prior permission of the Court and shall surrender his passport, if any.*

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

Learned counsel for the petitioner submits that in compliance of the aforesaid order, the petitioner has 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 petitioner has joined the investigation on 07.05.2024 and is 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. 7 of aforesaid status report which enumerates the items of dowry articles recovered from the petitioner.

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



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 02.05.2024 granting interim bail to the petitioners is made absolute.

However, the petitioner shall abide by the conditions stipulated under Section 438(2) Cr.P.C. He shall also join the investigation and co-operate with the investigating agency in case he is 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 petitioner is required for the investigation but is 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