

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

206

CRM-M-28542-2024

Date of Decision: 12.09.2024

Sunny Khunger

.... Petitioner

Versus

The State of Punjab and another

.... Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Himmat Singh Sidhu, Advocate for the petitioner.

Ms. Rishu Madan, AAG, Punjab.

Mr. A.K. Khunger, Advocate for respondent No. 2.

NIDHI GUPTA, J. (ORAL)

The petitioner who is the husband of respondent No. 2-complainant, has filed the present 1st petition under Section 438 Cr.P.C., seeking anticipatory bail in case FIR No. 30 dated 07.03.2024 registered under Sections 406 and 498-A IPC at Police Station City Malout, District Sri Muktsar Sahib.

On 30.05.2024, 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 grant of concession of anticipatory bail to the petitioner in FIR No. 0030 dated 07.03.2024 registered under Sections 406, 498-A IPC at Police Station City Malout, District Sri Muktsar Sahib (Annexure P-1).

Learned Senior Counsel appearing on behalf of the petitioner inter alia submits that the petitioner was married to the complainant on 07.11.2016 and one daughter was born out of their wedlock on 27.11.2017. It is stated that due to matrimonial discord, the parties have been living



separately since April, 2019. Learned Senior Counsel submits that only general and vague allegations have been made in the present FIR to the effect that the petitioner has maltreated her and demanded dowry from the complainant. Moreover, the allegations in the FIR, are on the face of it, falsified as the complainant had herself filed a petition under Section 9 of the Hindu Marriage Act on 08.08.2019 (Annexure P-5). However, as stated in the FIR the said petition was subsequently withdrawn by her. It is submitted that the complainant had also filed a petition under Section 125 Cr.P.C. on 18.04.2023 (Annexure P-6). It is contended that in both the petitions there is not even a whisper of the allegations of maltreatment and dowry demand against the petitioner. The present complaint was filed on 04.11.2023 i.e. after more than 04 years of separation and, therefore, the allegations on the face of it, are false and fabricated. The parents of the petitioner are the co-accused, who have already been granted anticipatory bail by the learned trial Court on 20.03.2024.

Notice of motion.

Mr. Kunwarbir Singh, Assistant Advocate General, Punjab accepts notice on behalf of the respondent-State of Haryana. Mr. A.K. Khunger, Advocate, who is present in Court, accepts and submits his Power of Attorney on behalf of the complainant, which is taken on record.

Learned counsel for the complainant opposes prayer for grant of anticipatory bail to the petitioner and submits that very specific allegations have been made against the petitioner.

Heard.

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.*

Learned counsel for the State is directed to file an affidavit/status report as to the exact role of the petitioner



alongwith the details of pending FIRs, if any, on or before the next date of hearing.

List on 12.09.2024.”

Learned counsel for the petitioner submits that in compliance of the aforesaid order, the petitioner has joined the investigation.

Reply dated 11.09.2024 filed by way of affidavit of Sh. Iqbal Singh, Deputy Superintendent of Police, Sub Division Malout, District Sri Muktsar Sahib on behalf of respondent No. 1-State of Punjab, is taken on record.

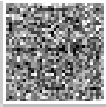
A copy thereof, has been supplied to learned counsel opposite.

On instructions from ASI Balchand and referring to the averments contained in para No. 7 of the reply, 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 11.06.2024.

Learned counsel for respondent No. 2-complainant vehemently opposes the prayer for grant of anticipatory bail to the petitioner and submits that recovery dowry articles and gold ornaments is yet to be effected from the petitioner.

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 30.05.2024 granting interim bail to the petitioner 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.

12.09.2024
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(NIDHI GUPTA)
JUDGE

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