

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

204

CRM-M-35021-2021

Date of Decision: 26.02.2024

Kulwinder Singh

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Ramandeep, Advocate for the petitioner.

Ms. Aakanksha Gupta, AAG, Punjab.

Mr. BPS Virk, Advocate for the complainant.

NIDHI GUPTA, J. (ORAL)

The petitioner is seeking anticipatory bail in case FIR No. 0028 dated 03.05.2021 (Annexure P-1) registered under Sections 406, 498-A and 312 IPC at Police Station Women, District Patiala, Punjab.

On 06.09.2023, when this case was listed for hearing, following order was passed by this Court :-

“The present petition has been filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in case FIR No.0028 dated 03.05.2021 under Sections 406 and 498-A IPC (Section 312 IPC added later-on), registered at Police Station Women, District Patiala.

Mr. P.S. Gill, Advocate has put in appearance on behalf of the complainant and filed his Vakalatnama, the same is taken on record.

Learned counsel for the petitioner inter alia submits that petitioner was married to the complainant/wife on 12.12.2017 and they have been living separately since 16.07.2020. Learned counsel further submits that the

petitioner was attacked by the complainant's family namely her brother, father and other relatives, in respect of which, the petitioner had filed an FIR against them on 17.07.2020 (Annexure P-2). Learned counsel also submits that the present FIR bearing No.0028 dated 03.05.2021, is nothing but misuse of the process of law as the same is counter-blast to the above-said FIR filed by the petitioner against the complainant's family. Learned counsel states that the allegations regarding demand of dowry etc. made by the complainant in the present FIR, are utterly false and fabricated. He further states that no offence under Section 312 IPC was mentioned in the FIR, however, it is the false version concocted by the complainant, and added later-on on 09.11.2021, which is almost 06 months after the registration of the present FIR. It is further submitted that even no notice has been served under Section 41-A of the Cr.P.C. upon the petitioner prior to the addition of the offence under Section 312 IPC.

Learned counsel for the complainant submits that the parents of the complainant were forced to transfer Rs.5 lakhs in the account of the petitioner by way of RTGS.

Learned counsel for the petitioner submits that the said amount has been returned to the complainant's family as evident from account statement of the petitioner (Annexure P-3).

Learned State counsel has already filed the status report dated 13/18.10.2022 by way of affidavit of Chand Singh, PPS, Deputy Superintendent of Police, PBI/Crime against Women and Children, District Patiala on behalf of the respondent-State and submits that medical record of the complainant prima facie indicates that she had suffered two abortions.

I have heard learned counsel for the parties.

Adjourned to 01.12.2023.

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.:-

- 1. that the petitioner shall make himself available for interrogation before the Investigating Officer as and when required;*
- 2. 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;*
- 3. 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 petitioner submits that in compliance of the aforesaid order, the petitioner has joined the investigation.

On instructions from ASI Lakhwinder 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 and is co-operating with the investigating agency. However, recovery of some dowry articles is yet to be effected from him.

Learned counsel for the complainant submits that the matter pertains to matrimonial discord between the parties. He further submits that though the petitioner has joined the investigation, however, a sum of Rs.5,00,000/- which was deposited in the account of the petitioner by way of RTGS is yet to be recovered 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 06.09.2023 passed by this Court granting 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.

26.02.2024
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(NIDHI GUPTA)
JUDGE

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