

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-29823-2024
Date of decision: 08.08.2024

Versus

State of Punjab and another ...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Mr. Arihant Goyal, Advocate
for respondent No.2.

HARPREET SINGH BRAR, J. (ORAL)

The present petition has been filed under Section 438 of Cr.P.C. seeking anticipatory bail to the petitioner in case bearing FIR No.531 dated 22.11.2023 under Section 498-A of IPC registered at Police Station City Barnala, District Barnala.

On 09.07.2024, the following order was passed:-

'The present petition has been filed under Section 438 of Cr.P.C. seeking anticipatory bail to the petitioner in case bearing FIR No.531 dated 22.11.2023 under Section 498-A of IPC registered at Police Station City Barnala, District Barnala.

Learned counsel for the petitioner inter alia contends that the FIR (supra) has been registered due to normal wear and tear of the matrimonial life and the factual ingredients of the offence are clearly missing. The petitioner was suffering from Tuberculosis which was not disclosed by him before the marriage. It is further contended that as per the settlement, the father of the petitioner has already transferred his share in the house in favour of the minor son of the petitioner and his wife but in spite of best efforts made by the petitioner, the father of the petitioner is not willing to hand over the possession to his wife as his father has no other place to live. Moreover, the maximum sentence under the offences in which the FIR is lodged is punishable upto three years. No notice under Section 41-A



*of Cr.P.C. was ever served upon the petitioner in view of the law laid down by the Hon'ble Supreme Court in '**Md. Asfak Alam Vs. State of Jharkhand and another**', 2023 (3) R.C.R(Criminal) 754.*

Notice of motion.

On the asking of the Court, Mr. Sandeep Kumar, DAG, Punjab, who is present in Court, accepts notice on behalf of the respondent-State. Mr. Arihant Goyal, Advocate puts in appearance on behalf of respondent No.2 and files his memorandum of appearance in the Court today which is taken on record.

*In the meantime, keeping in view the law enunciated by the Hon'ble Supreme Court in '**Satender Kumar Antil Vs. CBI**' (2022) 10 SCC 51; '**Arnesh Kumar Vs. State of Bihar**' (2014) 8 SCC 273 and '**Md. Asfak Alam**'(supra), at the first instance, the petitioner is directed to appear before the Investigating Officer within two weeks from today and on his doing so or in the event of arrest, the petitioner shall be admitted to interim bail on furnishing of bail/surety bond to the satisfaction of the Investigating/Arresting Officer. The petitioner shall cooperate with the Investigating/Arresting Officer and abide by the conditions as provided under Section 438 (2) Cr.P.C.*

If the Investigating/Arresting Officer does not permit the petitioner to join the investigation, the petitioner would appear before the Illaqa Magistrate, who would then summon the Investigating/Arresting Officer and direct him to join the petitioner in investigation, in terms of the order of this Court.

Adjourned to 08.08.2024.

Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court. '

Learned State counsel on instructions from SI Manjit Singh, at the very outset informs the Court that the petitioner has joined the investigation and his custodial interrogation is not required.

Learned counsel for respondent No.2 opposes the prayer made by learned counsel for the petitioner on the ground that father of the petitioner has resiled from the settlement arrived at between the parties and in spite of transfer of the house in the name of son of the complainant, she has been denied possession and thus, custodial interrogation of the petitioner is required.

In view of the statement of learned State counsel, order dated 09.07.2024 is hereby made absolute. The petitioner shall abide by the terms and conditions envisaged under Section 438(2) Cr.P.C.

The petition stands disposed of.

However, liberty is granted to respondent No.2 to avail her alternative remedy in accordance with law for seeking possession with regard to the transfer deed dated 20.05.2024 (Annexure P-3).

(HARPREET SINGH BRAR)
JUDGE

08.08.2024
Neha

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No