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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-32852-2023 (O&M)

Date of Decision: 22.02.2024

KULDEEP SINGH

.. Petitioner

Vs.

STATE OF PUNJAB & ANR

..Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Mukesh Rao, Advocate and
Mr. Shubham Aneja, Advocate for the petitioner.

Mr. Adhiraj Singh Thind, AAG, Punjab.

Mr. Kanwarpal S. Cheema, Advocate for respondent No.2.

...

SUMEET GOEL, J. (Oral)

1. This petition has been filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in FIR No. 147 dated 24.5.2023 under Section 376 IPC, registered at PS Zirakpur, District SAS Nagar.
2. On 18.07.2023, the following order was passed:-

“Petitioner filed CRM-M 32852/2023 seeking grant of anticipatory bail to him in case FIR No. 147 dated 24.5.2023 under Section 376 IPC, registered at PS Zirakpur, District SAS Nagar.

The said petition was listed on 14.7.2023 on which date this Court while issuing Notice of Motion for 20.10.2023 had ordered interim protection, as the State counsel had sought time to file status report. However, due to inadvertence the order regarding interim protection granted to the petitioner was not incorporated in the order dated 14.7.2023. Hence, the present application for incorporation of interim relief in the said order dated 14.7.2023.

Notice of the application.

Ms. Kanika Sachdeva, AAG Punjab accepts notice.

Ld. counsel for the petitioner inter alia submits that complainant is a married woman and the petitioner and complainant were in a consensual relationship. It is

submitted that this fact is evident from the FIR itself where the complainant has stated that “I had lodged a complaint against my boyfriend Kuldeep Singh”, who is petitioner herein. It is submitted that perusal of the detailed FIR reveals that complainant has entered into physical relation with the petitioner of her own will. Ld. counsel submits that it is for this reason that FIR contains no allegation regarding commission of any offence under Section 376 IPC and the only allegation in the FIR is regarding threat to life and defamation.

Ld. counsel submits that complainant has further admitted in the FIR that the matter was resolved between the parties on 14.10.2022 in which it was agreed that the petitioner will marry the complainant within six months. Ld. counsel, without admitting said fact, contends that it is clear that even before the expiry of alleged period of six months, present complaint has been moved by the complainant on 20.3.2023.

As directed vide order dated 14.7.2023, ld. State counsel shall file detailed status report/ reply in the matter as to the exact role of the petitioner along with the details of pending FIRs, if any, on or before the next date of hearing.

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 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.

CRM No.29117/2023 stands disposed of accordingly.”

3. Learned State counsel, on instructions from ASI Sushvir Kumar, has stated that pursuant to the order dated 18.07.2023, the petitioner has joined investigation and is no longer required for custodial interrogation.

4.

In view of above, the petition is allowed and interim order dated 18.07.2023 passed by this Court is made absolute, subject to the conditions as enumerated under Section 438(2) Cr.P.C.
5.

This order should not be treated as “blanket” order. It will not be interpreted as granting petitioner indefinite protection from arrest. It shall be confined to the FIR mentioned *ibid* and will not operate in respect of any other incident that involves commission of an offence.
6.

Liberty is reserved in favour of State/complainant to move for cancellation/recall of this order in case the petitioner violates any condition stipulated under Section 438(2) Cr.P.C., 1973 or upon showing any other sufficient cause.
7.

Needless to say that anything observed herein above shall not be construed to be an opinion on the merits of the case.
8.

Pending application(s), if any, shall also stand disposed off.

22.02.2024

Jasmine Kaur

(SUMEET GOEL)

JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No