

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

Date of decision: 13.03.2024

.....Petitioner

.....Respondent

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Mr. Naveen Sharma, Advocate
For the complainant.

HARPREET KAUR JEEWAN, J. (ORAL)

1. The instant petition has been filed under Section 438 Cr.P.C for grant of anticipatory bail to the petitioner in case FIR No.115 dated 21.07.2022 under Sections 406, 498A of IPC registered at Police Station Women, District Police Commissionerate Ludhiana.
2. Learned counsel for the petitioner submits that the petitioner was granted interim bail as per the order dated 21.11.2022 passed by the Co-ordinate Bench of this Court.

The relevant portion of the aforesaid said order reads as under:-

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“Learned counsel for the petitioner submits that vide order dated 6.10.2022 arrest of the petitioner was stayed and the parties were referred to the Mediation & Conciliation Centre of this court. Counsel submits that mediation proceedings are going on in a positive direction. He submits that some more time is required to resolve the dispute.

Learned counsel for the complainant has affirmed the fact that parties need some more time to resolve the dispute.

Report of the Mediator is also placed on record, wherein it has been mentioned that parties have prayed for some more time for further proceedings.

Learned State counsel submits that investigation has not proceeded further as the petitioner was not directed to join investigation.

In view of the above position, order dated 6.10.2022 is modified to the extent of directing the petitioner to join the investigation.

Petitioner is directed to join investigation in the concerned police station on 23.11.2022 at 10 AM.

Parties are directed to appear before the Mediation & Conciliation Centre of this court for further proceedings on 12.12.2022.

Adjourned to 7.2.2023.

In the meanwhile, in the event of arrest, the petitioner shall be released on interim bail subject to the satisfaction of the Arresting Officer/Investigating Officer. The petitioner shall join investigation before the Investigating Agency/Officer. He shall abide by the following conditions as envisaged under Section 438(2) Cr.P.C”

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3. Learned counsel for the petitioner submits that the petitioner has joined the investigation in compliance of the order passed by this Court. Counsel for the petitioner, very candidly submits that though the matter could not be compromised in the Mediation, however he would continue to pay a sum of Rs.3000/- for the maintenance of the minor child during the pendency of the present FIR. He is ready to face trial and even ready for reconciliation.

4. Learned State counsel has also confirmed that the petitioner has joined investigation on 23.11.2022, however he had not produced any item of istridhan. However, he again joined investigation on 10.06.2023 but again no recovery has been made. Status report has been filed by way of affidavit of Nirdosh Kaur (PPS), ACP, CAW & C-Cell, Ludhiana on behalf of respondent-State of Punjab and the same is taken on record. Copy thereof has been supplied to the counsel for the petitioner.

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5. The counsel appearing on behalf of the complainant opposed the bail application on the ground that no recovery has been made.
6. There are allegations of cruelty and demand of dowry by the petitioner-husband. The said allegations are matter of trial. The petitioner had joined investigation. Merely on the ground of non-recovery of dowry articles, the bail cannot be declined.
7. In view of the reasons recorded in the order dated 21.11.2022 and keeping in view the fact that the petitioner has joined investigation, his further custodial interrogation is not required by the Investigating Agency, the present petition is allowed and the order dated 21.11.2022 passed by the co-ordinate Bench of this Court, granting interim bail to the petitioner is made absolute, subject to the conditions laid down under Section 438(2) Cr.P.C.
8. However, petitioner would be bound by the undertaking given by him in Court of payment of Rs.3000/- to the minor child.
9. However, it is made clear that nothing expressed hereinabove would be construed to be an expression of opinion on merits of the case.
10. Liberty is reserved in favour of the State/complainant to move for cancellation/recalling of the order in case the petitioner violates any condition stipulated under Section 438 (2) Cr.P.C., or upon showing any other sufficient cause.

(HARPREET KAUR JEEWAN)
JUDGE

13.03.2024

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Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*