

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

213

CRM-M-49982-2023

Date of Decision: 25.01.2024

SHIV KUMAR

...Petitioner

Versus

STATE OF PUNJAB AND ANOTHER

...Respondent

CORAM:- HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present:- Mr. Sandeep Gahlawat and Ms.Amandeep Kaur, Advocates
for the petitioner.

Ms. Himani Arora, AAG Punjab.

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.66 dated 02.08.2023 registered under Sections 406 and 498-A of the IPC registered at Police Station Women, Patiala, District Patiala.
2. Short reply by way of affidavit of Karnail Singh, PPS, Deputy Superintendent of Police, PBI, Crime Against Women and Children, District Patiala has been filed on behalf of respondent-State, which is taken on record.
3. Learned counsel for the petitioner *inter alia* contends that the FIR was registered at the instance of the complainant-respondent No.2 with the allegation that the petitioner had committed cruelty upon the complainant-respondent No.2 on account of demand of dowry.
4. On 04.10.2023, the Coordinate Bench of this Court passed the following order:-

“Learned counsel for the petitioner-husband *inter alia* submits that the petitioner was married to the complainant/respondent No.2 herein on 15.1.2017. He submits that this was the second marriage of the

complainant/respondent No.2. Out of the said wedlock, one child was born on 05.2.2018, who, currently, is in the care and custody of the petitioner herein. Learned counsel submits that the allegations made in the FIR with regard to dowry and cruelty are false and fabricated as the complainant had left the matrimonial home on her own accord on 10.08.2020. Learned counsel for the petitioner submits that the present FIR is instigated due to the fact that the petitioner had filed a petition under Section 13 of the Hindu Marriage Act on 19.1.2021, which was subsequently withdrawn due to lack of jurisdiction. It is submitted that the complainant had even filed her reply in the said petition. It is submitted that after withdrawal of the first petition, filed under Section 13 of the Hindu Marriage Act, due to a jurisdictional defect, the petitioner again filed a second petition on 09.8.2022, whereafter the present FIR was registered on 02.8.2023. However, learned counsel submits that petitioner is ready to join the investigation and undertakes to cooperate in the investigation.

Notice of motion.

On asking of the Court, Mr. Sanish Girdhar, AAG, Punjab accepts notice on behalf of respondent No.1-State. Learned counsel opposes the prayer for grant of anticipatory bail to the petitioner on the ground that serious allegations have been levelled against him in the FIR. He, however, seeks time to file detailed status report in the matter.

Mr. Dhiraj Jindal, Advocate has put in appearance on behalf of respondent No. 2/complainant and filed his Power of Attorney, which is taken on record. Learned counsel opposes the prayer for grant of anticipatory bail to the petitioner on the ground that due to demand of dowry, continuous cruelty was committed upon the complainant by the petitioner, since August 2020. It is further submitted that even after separation, an amount of Rs.2,10,000/- was transferred in the account of sister of the petitioner, namely, Neeru on account of demand of dowry. Learned counsel submits that the dowry articles are yet to be recovered from the petitioner. Learned counsel further submits that the complainant was married to the petitioner and complainant's sister was married to brother of the petitioner, in the same matrimonial house and on account of demand of dowry, both were ousted from the matrimonial home.

Adjourned to 25.1.2024.

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.:-

5. Learned counsel for the petitioner further contends that the petitioner had joined the investigation in compliance of the order dated 04.10.2023 passed by the Coordinate Bench of this Court.
6. Learned counsel appearing on behalf of the respondent-State on instructions from the Investigating Officer of the case confirms that the petitioner has joined investigation on 21.11.2023. He, however, submits that the amount of Rs.2,10,000/- has not been recovered.
7. The allegations *inter se* parties are matter of trial. Keeping in view the reasons recorded in the order dated 04.10.2023 and keeping in view the fact that the petitioner has joined investigation, his custodial interrogation is not required by the Investigating Agency, the present petition is allowed and the order dated 04.10.2023 granting interim bail to the petitioner is made absolute, subject to the conditions laid down in Section 438(2) Cr.P.C.
8. Nothing expressed hereinabove would be construed to be an expression of opinion on merits of the case.

(HARPREET KAUR JEEWAN)
JUDGE

25.01.2024
P.Bhatt

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