

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-50779 of 2023
DATE OF DECISION :- 24.01.2024

Mahender Singh ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. G.S. Ghuman, Advocate
with Mr. Atul Kumar, Advocate for the petitioner.

Ms. Priyanka Sadar, AAG, Haryana.

Dr. Rishi Pal Singh, Advocate for respondent No. 2.

SUMEET GOEL, J. (Oral)

1. Apprehending his arrest in FIR No. 0420 dated 03.08.2023 registered for offences punishable under Sections 323,406,498-A,506 of IPC at Police Station Sector 32-33, District Karnal; the petitioner has preferred this petition under Section 438 Cr.P.C. seeking pre-arrest bail.

2. On 07.10.2023, the following order was passed:-

“Prayer in this 1st petition filed under Section 438 Cr.P.C. is for grant of anticipatory bail to the petitioner in case FIR No. 0420 dated 03.08.2023 (Annexure P-1) registered under Sections 323, 406, 498-A and 506 IPC at Police Station Sector 32-33, District Karnal, Haryana.

Learned counsel for the petitioner, inter alia, submits that petitioner is the 75-years-old father-in-law of the complainant who is suffering from various old-age ailments. It is submitted that the marriage of son of the petitioner, namely, Bhagwant Singh was solemnized with the complainant on 10.04.2019. One

daughter was born out the said wedlock on 28.12.2019 who is currently in the care and custody of the complainant/wife. It is submitted that son of the petitioner/ husband of the complainant used to live in France and, therefore, after 1½ months of the marriage he returned to France, however, he did not take his wife/complainant along with him. Learned counsel further submits that the allegation made in the FIR that son of the petitioner/husband of the complainant was already married in France to another woman at the time of marriage with the complainant, is true. Learned counsel submits that the petitioner undertakes to provide the details of the passport of his son/husband of the complainant; and also undertakes to surrender his own passport to the investigating agency. It is also submitted that the petitioner shall join the investigation and co-operate with the investigating agency, and shall abide by all the terms and conditions imposed upon him.

Notice of motion.

On the asking of Court, Mr. Brijesh Sharma, AAG, Haryana, accepts notice on behalf of respondent No. 1-State; whereas Mr. Gourav Pal, Advocate has put in appearance on behalf of the complainant and submits his memo of appearance, which is taken on record. Learned counsel for the complainant undertakes to furnish Vakalatnama in the Registry, within a period of two weeks from today.

Adjourned to 16.01.2024.

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.:-

- 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.

Perusal of the record of the case shows that petitioner was granted interim bail by the learned Additional Sessions Judge, Karnal, vide order dated 05.09.2023 (Annexure P-2). However, the same was not made absolute vide impugned order dated 19.09.2023 (Annexure P-3) as the petitioner/accused failed to provide details of the passport of the husband of the complainant who has been residing in France for the last 15 years.

It is, however, made very clear that in view of the seriousness of the allegations made in the FIR, in case, the petitioner does not comply with his abovesaid undertaking(s), then the interim bail granted to him shall be deemed to be ipso facto vacated, without any further reference being made to this Court.

Meanwhile, State counsel is directed to file an affidavit/status report 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.”

3. Status report by way of affidavit of Sh. Nayab Singh, HPS, Deputy Superintendent of Police, Women Safety, Karnal filed in the Court today. The same be taken on record. Learned State counsel, on instructions from ASI Kusham has stated that pursuant to the order dated 07.10.2023, the petitioner has joined investigation and is no longer required for custodial interrogation. However, the entire dowry articles have not yet been recovered.

4. Learned counsel for the complainant pleads that the petitioner is intentionally not handing over the entire dowry articles and is evading to do so.

5. Faced with such situation, learned counsel for the petitioner states that the entire dowry articles have been handed over by him.

6. However, in order to lend quietus to the aspect of recovery of dowry articles for the present, the petitioner will deposit a sum of Rs.75,000/-

with the learned Illaqa Magistrate within ten days from today. On his doing so,

learned Illaqa Magistrate will release the same in favour of the complainant upon due identification. This shall be without prejudice to rights and contentions of rival parties.

7. In view of above, the interim order dated 07.10.2023 passed by this Court is made absolute, subject to the conditions as enumerated under Section 438(2) Cr.P.C.

8. This order should not be treated as “blanket” order. It will not be read 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.

9. 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.

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

(SUMEET GOEL)
JUDGE

24.01.2024
P.Singh

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