



225 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-51591-2023
Date of decision: 31st May, 2024

Bachan Kaur

...Petitioner(s)

Versus

State of Punjab

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Vivek K. Thakur, Advocate for the petitioner.
Mr. A.S. Samra, AAG, Punjab.
Mr. Abhishek Khullar, Advocate for the complainant.

MANISHA BATRA, J (ORAL):-

The present petition has been filed under Section 438 of Cr.P.C.
seeking anticipatory bail in the FIR mentioned below:-

FIR No.	Dated	Police Station	Sections
88	25.08.2023	Women, District Police Commissionerate, Jalandhar	498-A and 406 of IPC, 1860

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on the basis of complaint lodged by the complainant Jasjeet Kaur on 25.08.2023 alleging therein that she was married with Bhupinder Singh who is son of the present petitioner on 29.01.2021. It was the second marriage of both of them. Huge amount of money was spent by her parents at the time of marriage and gold ornaments were given to the petitioner and her other family members. After



her marriage, the complainant came to know that it was infact third marriage of Bhupinder Singh. The petitioner who is mother-in-law of the complainant and her husband raised demand of a sum of Rs. 25,00,000/- for purchase of a flat. In February, 2021 husband of the complainant had left for USA but the petitioner and other members of his family kept on harassing the complainant by raising demand of Rs. 25,00,000/- for applying for her immigration to USA. She further alleged that her husband came back in December, 2021. When complainant insisted for getting their marriage registered, he physically assaulted her by reiterating the demand of Rs. 25,00,000/- and thereafter, in her absence, he left their apartment by removing her gold ornaments. As such, she prayed for taking action in the matter. After registration of FIR, investigation proceedings were initiated and are under way. Apprehending her arrest, the petitioner had filed an application for grant of pre-arrest bail before the Court of learned Additional Sessions Judge, Jalandhar, which was dismissed vide order dated 04.10.2023.

3. It is argued by learned counsel for the petitioner that she is seventy eight years old lady whose husband has died. She has been residing at village Fatehgarh Sikri, District Kapurthala. The complainant never lived with her after her marriage. Rather she along with her husband resided in a flat at Jalandhar. The complainant lived with the son of the petitioner only for a span of 4-5 months. It was a case of matrimonial discord between her son and the complainant and she has been falsely implicated in this case.



Neither any ornament belonging to the complainant had been entrusted to her nor she can get the same recovered. She has already joined the investigation and neither her custodial interrogation is required nor any recovery is to be effected from her. Therefore, it is urged that she deserves to be extended benefit of bail.

4. The complainant has placed on record Annexure P-1 copy of a complaint filed by her before the Commissioner of Police, Jalandhar making prayer for addition of offences punishable under Section 420 and 498-A of IPC against the petitioner and her family members in the FIR of this case by alleging that infact the husband of the complainant had previously solemnized two marriages but this fact was concealed from her thereby cheating her. It is also submitted that he has performed marriage with her without taking divorce from his wife Surinder Kaur and therefore, action is also required to be taken against the petitioner as well as her son.

5. It is argued by learned State counsel assisted by learned counsel for respondent No.2-complainant that there are serious and specific allegations against the petitioner. The Court of learned Additional Sessions Judge, Jalandhar has dismissed her bail application due to the reason that though she had undertaken that she would get recovered the dowry articles which were lying in her custody but she had failed to get the same recovered even after joining investigation in pursuance of the order passed by this Court. It is, therefore, argued that since the dowry articles belonging to the complainant have been criminally misappropriated by the petitioner and



have not been returned, therefore, she does not deserve to be given benefit of pre-arrest bail.

6. I have heard learned counsel for the parties at considerable length and have gone through the record carefully.

7. As per the allegations in the FIR, co-accused Bhupinder Singh who is son of the present petitioner had performed third marriage with the complainant on 29.01.2021, while it was represented to the complainant that it was his second marriage. The complainant levelled allegations that after the marriage, she had been harassed by the petitioner, her son and other members of her family on account of demand of Rs. 25,00,000/- which was previously raised for the purpose of purchase of flat and then for the purpose of her immigration to the USA. The petitioner has been admittedly living at village Fatehgarh Sikri, whereas the complainant alongwith her husband and children born out of her first marriage had been living in an apartment at Jalandhar. As per the allegations, the ornaments kept in her apartment had been taken away/stolen by her husband in her absence. These allegations cannot be attributed to the present petitioner. The allegation with regard to the entrustment of gold ornaments etc are general in nature and it has not been mentioned in the FIR as to which particular article/ornament/clothing had been handed over to the petitioner and in what manner, she had misappropriated the same and it has also not been alleged that she had converted the same to her own use. A person may be held to have committed offence of criminal breach of trust punishable under Section 406 of IPC



only, if it is proved that he had been entrusted any property or was having dominion over any such property and dishonestly misappropriated it and converted the same to his/her own use, or dishonestly used it or dispose of it. In this case, on taking the allegations as levelled in the FIR to be correct on their face value, *prima facie* no case for entrustment of any specific property belonging to the complainant and criminal misappropriation thereof and conversion of any such property to her own use on the part of the petitioner appears to have been made out. The statement made by her counsel before the Court that the dowry articles lying in the home of the petitioner would be returned by her cannot be read to mean that the petitioner had admitted that any such article was in her position and she had misappropriated the same.

8. Then so far as the allegations with regard to the commission of offence punishable under Section 498-A of IPC are concerned, the same are general and omnibus in nature. No specific allegations describing the exact nature of the cruelty or the harassment allegedly made by the petitioner or any willful act or conduct part which could have prevented the complainant to commit suicide has been levelled. As such, it is also a debatable question as to whether the petitioner had committed offence under Section 498-A of IPC or not. The petitioner has joined the investigation. No purpose would be served by detaining her in custody. Subject offences are triable by Magistrate. Keeping in view the discussion as made above, I am of considered opinion that the petition deserves to be allowed and the order



dated 17.10.2023 granting interim bail to the petitioner is made absolute, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure.

[MANISHA BATRA]
JUDGE

31st May, 2024
Parveen Sharma

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| 1. Whether speaking/ reasoned | : | Yes |
| 2. Whether reportable | : | Yes |