



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

205+101

CRM-M-52551-2023 (O&M)
Date of Decision: 22.08.2024

ABHISHEK CHAUDHURI AND OTHERS

...Petitioners

Versus

STATE OF PUNJAB

...Respondent

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

Present:- Mr. Tarun Singhal, Advocate
for the petitioners.

Ms. Himani Arora, AAG, Punjab.

Mr. Nimanyu Gautam, Advocate
for the complainant.

HARPREET KAUR JEEWAN, J.

1. The instant first petition has been filed under Section 438 of the Code of Criminal Procedure, 1973 seeking anticipatory bail in case FIR No.19 dated 23.06.2023, under Sections 498-A and 406 IPC, 1860, registered at Women Police Station, District Ferozepur.
2. As per order dated 16.10.2023 passed by the Coordinate Bench of this Court, the petitioners were directed to join the investigation and interim order was passed while making the following observations:

‘Learned counsel for the petitioners, inter alia, submits that petitioner No. 1-Abhishek Chaudhuri is the husband and petitioner No. 2-Amal Choudhury, is the father-in-law of the complainant; whereas petitioner No. 3-Shukla Choudhuri, is the mother-in-law of complainant. It is submitted that petitioner No. 1 was married to the complainant on 03.02.2014 and out of their wedlock one daughter was



born on 29.05.2018, who is currently in the care and custody of the complainant. Learned counsel submits that the allegations levelled in the FIR that the complainant was kicked out of the matrimonial home on 20.11.2020 and that the petitioners are demanding dowry from her are false and fabricated, as the present FIR was registered after 09 years of marriage; and after the parties have been living separately for over 2½ years. It is further submitted that there are several litigations pending between the parties and vide order dated 09.02.2023 (Annexure P-3), the Hon'ble Supreme Court, had directed that all the cases instituted before registration of the present FIR be transferred to a competent Court at Chandigarh. It is contended that now in order to harass the petitioners, the complainant had filed the present FIR at Ferozepur. It is submitted that though the petitioners are residents of Kolkata, petitioner No. 1 had already joined the investigation on 16.09.2023 at Ferozepur. Furthermore, it is submitted that petitioners No. 2 and 3 are senior citizens and suffering from various old age ailments as is evident from medical reports (Annexure P-4), therefore, they may be permitted to join the investigation through virtual mode. Learned counsel submits that the petitioners are open for mediation with the complainant. Nothing has to be recovered from the petitioners, therefore, their custodial interrogation is not required. The petitioners are ready to join the investigation as and when required and shall abide by all the terms and conditions imposed upon them.

Notice of motion.

On the asking of Court, Mr. Shubham Kaushik, AAG, Punjab accepts notice on behalf of respondent-State; whereas Mr. Namit Gautam, Advocate, has put in appearance on behalf of the complainant and submits his Vakalatnama, which is taken on record.

Learned counsel for the complainant vehemently opposes the prayer for grant of anticipatory bail to the petitioners and submits that in another case pending adjudication before this Court, the parties were relegated to Mediation and Conciliation Centre of this Court, for exploring the possibility of an amicable settlement between them, however, the petitioners did not appear before the Mediator, though they made a statement before a co-ordinate Bench of this Court that they will pay Rs.4,50,000/- to the complainant.

Learned counsel for the petitioners counters the aforesaid submission made by learned counsel for the complainant and submits that the petitioners were unable to appear before the Mediator at that time as accused No. 4/brother of petitioner No. 1 had expired on 14.07.2023 as is evident from the copy of death certificate (Annexure P-5).

Learned counsel for the complainant admits that at present the complainant is residing at Chandigarh and is unable to explain as to why the present FIR has been registered at Ferozepur.

In the meantime, the petitioner No. 1 is directed to appear before the SHO/Investigating Officer to join investigation; whereas petitioners No. 2 and 3 shall join the investigation through virtual mode and in the event of their arrest, they shall be released on interim bail on their 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 themselves available for interrogation before the Investigating Officer as and when required;
- ii) that the petitioners 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 their passports, if any.

At the joint request of learned counsel for the parties, the matter is referred to the Mediation and Conciliation Centre of this Court for exploring the possibility of an amicable settlement between the parties.

The parties are directed to appear before the Mediation and Conciliation Centre of this Court on 06.11.2023 at 10:00 A.M. (petitioners No. 2 and 3 through virtual mode).

Adjourned to 18.01.2024, for awaiting report of the Mediator.

Meanwhile, State counsel is directed to file an affidavit/status report as to the exact role of the petitioners along with the details of pending FIRs, if any, on or before the next date of hearing.'

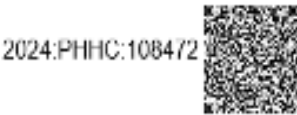
3. Learned State counsel on instructions from ASI Darshan Singh has confirmed that the petitioners have joined the investigation on 16.09.2023 and 29.06.2024. Learned State counsel has informed that recovery of majority of the dowry articles including some gold ornaments has been effected as per recovery memo dated 16.09.2023 and 29.06.2024. Copies of the recovery memo is submitted in the Court today and the same are taken on record.

4. Learned counsel for the complainant has opposed the petition on the ground that complete recovery has not been effected.

5. The allegations and counter-allegations between the petitioners and the complainant are matter of trial. The petitioners have joined the investigation and their further custodial interrogation is not required. Merely on the ground of non-recovery of complete dowry articles, the relief cannot be declined to the petitioners.

6. In view of the aforesaid facts and the reasons recorded in the order dated 16.10.2023 and keeping in view the fact that the petitioners have joined the investigation and their further custodial interrogation is not required by the

Investigating Agency, the present petition is allowed and the order dated



16.10.2023, granting interim bail to the petitioners is made absolute, subject to the conditions laid down under Section 438(2) Cr.P.C.

7. However, it is made clear that nothing expressed hereinabove would be construed to be an expression of opinion on merits of the case.

8. All the pending miscellaneous applications, if any, shall stand disposed of.

(HARPREET KAUR JEEWAN)
JUDGE

22.08.2024
P.Bhatt

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