

2024:PHHC:001775

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-58435-2022

Date of decision: 09.01.2024

Ashutosh Gupta

....Petitioner

V/s

State of Punjab and another

....Respondents

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Prakhar Chauhan, Advocate for
Mr. Rana Gurtej Singh, Advocate for the petitioner.
Mr. Anup Singh, AAG Punjab.
Mr. Chanchal J. Singla, Advocate
for the complainant-respondent No.2.

SUMEET GOEL, J.

1. Present petition has been filed under Section 438 of Code of Criminal Procedure, 1973 (for short ‘Cr.P.C.’) for grant of anticipatory bail to the petitioner in case FIR No.0126 dated 09.11.2022 (Annexure P-1), under Sections 406 and 498-A IPC registered at Police Station Mataur, SAS Nagar, Mohali.

2. On 17.08.2023, following order was passed in this case:-

“The petitioner is seeking anticipatory bail in FIR No.0126 dated 09.11.2022 (Annexure P-1), under Sections 406 and 498-A IPC, registered at Police Station Mataur, SAS Nagar, Mohali.

On 15.12.2022, this Court had passed the following order :-

“Instant petition has been filed under Section 438 Cr.P.C. praying for grant of anticipatory bail to the petitioner in case FIR No.0126 dated 9.11.2022 under

sections 406 and 498-A I.P.C, registered at Police Station, Mataur, SAS Nagar, Mohali.

*Learned counsel for the petitioner has contended that the petitioner solemnized marriage with the complainant on 21.9.2020 and thereafter a matrimonial discord took place between them. It is submitted that the FIR in question has been lodged on false and frivolous allegations. Counsel submits that even from the reading of the FIR no case, as alleged against the petitioner is made out. Counsel has placed reliance upon the judicial precedent in case of **Arnesh Kumar V. State of Bihar (2014) 8 SCC 273**. Counsel submits that petitioner is ready to settle the dispute amicably if the matter is referred to the Mediation Centre. It is further submitted that petitioner has no criminal antecedents as he has never been involved in any other criminal offence, however, he is ready and willing to join the investigation.*

Notice of motion.

On the asking of the court, Mr. Karunesh Kaushal, AAG, Punjab accepts notice on behalf of respondent-State.

Learned counsel for the petitioner is directed to implead the complainant as a party/respondent in the petition. Petitioner would pay an amount of Rs.25,000/- as litigation expenses to the complainant within one month from today.

List on 12.4.2023.

To be listed along with CRM-M-58394-2022.

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:-

- (i) That the petitioner shall make himself available for interrogation by a police officer as and when required to do so.*
- (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 from disclosing such facts to the court or to any police officer.*
- (iii) That the petitioner shall not leave India without prior permission of the court.”*

Learned State counsel, on instructions from the Investigating Officer states that in terms of the order passed by this Court, reproduced above, the petitioner has joined the investigation and no further interrogation is required at this stage.

In view of the above, the order dated 15.12.2022 granting interim bail to the petitioner is made absolute.

However, the petitioner shall abide by the conditions stipulated under Section 438(2) Cr.P.C. He shall also join the investigation and cooperate with the investigating agency in case he is required for the same in future as and when called upon to do so.

In case at any given point of time hereinafter, it is felt by the investigating agency that the petitioner is required for the investigation but is not cooperating, they will be at liberty to approach this Court for passing appropriate orders.

At this stage, on joint request of learned counsel for the private parties, the matter is referred to the Mediation and Conciliation Center of this Court and the parties are directed to appear before the Mediator on 13.09.2023.

Adjourned to 19.12.2023 for awaiting the report of the Mediator.

To be heard alongwith CRM-M-58394-2022.”

3. In terms of the aforesaid order dated 17.08.2023, learned counsel for the petitioner as also the learned counsel for the complainant have jointly submitted that the mediation process has failed.
4. In view of above, no further orders are called for as the interim pre-arrest bail granted to petitioner vide order dated 15.12.2022 has already been made absolute vide order dated 17.08.2023.
5. 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.
6. 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

January 09, 2024
Ajay

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