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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-63025-2023

Date of decision: 5th January, 2024

Kanwar Karn Singh Brar

...Petitioner(s)

Versus

State of Punjab and another

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Deepak Gupta, Advocate for the petitioner(s)
Mr. M.S. Nagra, AAG, Punjab
for the respondent-State.

MANISHA BATRA, J (ORAL):-

The instant application has been filed by the petitioner under Section 438 Cr.P.C. for seeking concession of anticipatory bail in criminal complaint bearing No. 1048, dated 04.10.2014, RT No. 16, dated 13.06.2012 titled as '*Jaswinder Kaur vs. Kanwar Karan Singh Brar and others*' filed under Sections 406, 420, 498-A read with Section 120-B of Indian Penal Code, 1860 and Section 12 of Protection of Women from Domestic Violence Act, 2012 as pending in the Court of Learned Chief Judicial Magistrate, Bathinda wherein he has been ordered to be summoned as an accused to face trial.

2. The aforementioned complaint is shown to be filed by respondent No.2 complainant as against the present petitioner who is her husband levelling allegations of subjecting her to cruelty on account of demand of dowry and harassing her mentally as well as physically.

3. A perusal of the record reveals that FIR on the same allegations had also been registered against the present petitioner in which he has been

extended benefit of anticipatory bail. It is further revealed from the record that in the complaint, the present petitioner alongwith his father was ordered to be summoned as an accused by the learned trial Court vide order dated 09.01.2023 to face trial for commission of offence punishable under Section 498-A read with Section 120-B of IPC.

4. The petitioner had moved an application for grant of anticipatory bail before the learned trial Court, however, the same has been dismissed, vide order dated 11.05.2022.

5. It is submitted by learned counsel for the petitioner that the above mentioned complaint had been filed and process against him was issued while he was not in India and was residing in Newzealand and was not aware about the proceedings declaring him as such. It is further argued that since he has been extended benefit of regular bail in the case registered on the basis of FIR hence, he deserves to be given concession of bail in this case also.

6. Notice was issued to respondent No.2 but the same has not been received back served or otherwise.

7. Status report has been filed by respondent No.1-State giving details that it is a private complaint case.

8. I have heard learned counsel for the petitioner and have perused the record.

9. On a perusal of record, it is clear that the present petitioner has been summoned as an accused in a private complaint case filed by respondent No.2. On the similar allegations, an FIR has also been registered against the petitioner in which he has been extended benefit of regular bail and is facing trial. Since it is a private complaint case, therefore, neither the

recovery is to be effected. The proceedings of declaring him as a proclaimed offender had been initiated behind his back when he was in Newzealand. Keeping in view the entire facts and circumstances of the case, I am of the considered opinion that it is a fit case to exercise powers under Section 438 of Cr.P.C. and to extend benefit of anticipatory bail to the petitioner.

10. The petition is allowed and the direction is given to the learned trial Court to admit the petitioner to bail, subject to his appearing before the learned trial Court within a period of six weeks’ and subject to his furnishing bonds to its satisfaction.

11. A copy of this order be sent to the learned trial Court.

[MANISHA BATRA]
JUDGE

5th January, 2024
Parveen Sharma

1. Whether speaking/ reasoned

:

Yes / No
2. Whether reportable

:

Yes / No