

(2014) 08 SHI CK 0103
In the High Court Of Himachal Pradesh
Case No : Cr. MP(M) No. 832 of 2014

Meena Kumari

APPELLANT

Vs

State of Himachal Pradesh

RESPONDENT

Date of Decision : 19-08-2014

Acts Referred:

Constitution of India, 1950 — Article 21
Criminal Procedure Code, 1973 (CrPC) — Section 438
Penal Code, 1860 (IPC) — Section 34, 498-A, 506

Citation : (2014) 08 SHI CK 0103

Hon'ble Judges : Piar Singh Rana, J

Bench : Single Bench

Advocate : Suresh Kumar Thakur, Advocate for the Appellant; Pushpender Jaswal, Dy. Advocate General and J.S. Rana, Assistant Advocate General, Advocate for the Respondent

Judgement

Piar Singh Rana, J.—Present petition filed u/s 438 of the Code of Criminal Procedure 1973 for grant of bail in connection with case FIR No. 104 of 2014 dated 23.6.2014 registered under Sections 498-A and 506 read with Section 34 of Indian Penal Code at Police Station Jawali, District Kangra Himachal Pradesh.

2. It is pleaded that applicant belongs to reputed family. It is pleaded that complainant Smt. Karuna Kumari wife of Sh. Shashank resident of village Kardial PO Pharian Tehsil and Police Station Jawali District Kangra had made false allegation against present applicant that she has illicit relation with the husband of complainant Sh. Shashank resident of village Kardial PO Pharian Tehsil and Police Station Jawali District kangra. It is further pleaded that complainant also filed false complaint against the mother, father, sisters and brother of Shashank who is husband of complainant. It is further pleaded that other co-accused are already on bail. It is further pleaded that co-accused Shashank is related to applicant Meena Kumari due to his employment in the same private Company where both of them were working. It is further pleaded that applicant is friend of co-accused Shashank and they are concerned with each other for the purpose of

employment only where both of them were employed. It is further pleaded that complainant in order to harass and humiliate co-accused Shashank and the persons who are very near and dear to co-accused Shashank have made false and frivolous allegations. It is further pleaded that applicant will join investigation of present case. It is further pleaded that applicant will abide by all the terms and conditions of the Court. Prayer for acceptance of bail application sought.

3. Per contra police report filed. There is recital in police report that FIR No. 104 of 2014 dated 23.6.2014 has been registered against the applicant under Sections 498-A and 506 read with Section 34 IPC at Police Station Jawali, District Kangra HP. There is further recital in police report that on dated 23.6.2014 Smt. Karuna Kumari wife of Shashank resident and PO Kardial Tehsil and Police Station Jawali District kangra came at Police Station and informed that she is M.Sc. Chemistry and B.Ed. There is further recital in police report that complainant have two brothers and one sister and all are married and father and mother of complainant were teachers who have now retired from service. There is further recital in police report that complainant was married with Shashank on 7.5.2009. There is further recital in police report that after marriage husband of complainant harassed complainant mentally and physically. There is further recital in police report that husband of complainant developed relations with applicant Meena Kumari resident of House No. 716/30 Sector 26 Bapu Dham Colony Chandigarh. There is further recital in police report that applicant Meena Kumari also participated in her ring ceremony. There is further recital in police report that after marriage the husband of complainant harassed complainant in collusion with Girdhari Lal, Suresh Kumari, Sweta, Ranjana and Vivek Prasar physically and mentally. There is further recital in police report that Complainant had remained admitted at PGI Chandigarh for the treatment of tumor. There is further recital in police report that husband of complainant withdrawn Rs. 50,000/- (Fifty thousand) through ATM from the account of complainant. There is further recital in police report that accused persons alleged that complainant did not bring sufficient dowry. Case under Sections 498-A and 506 read with Section 34 IPC was registered. There is further recital in police report that on dated 12.12.2012 accused persons came in the residential house of complainant at Pinjore and quarrelled with her. There is further recital in police report that co-accused Shashank took knife from the kitchen and told the complainant to divorce him. There is further recital in police report that incident was witnessed by Monika and Sushma Kumari. There is further recital in police report that Ranjna Kumari sister-in-law of complainant used to mentally harass the complainant. There is further recital in police report that applicant Meena Kumari girl friend of co-accused Shashank was directed to join investigation on 19.7.2014. As per police report applicant Meena Kumari and Shashank used to work jointly for about 6/7 years ago in a private Company. There is further recital in police report that brother of Meena Kumari namely Sunil also used to work in the same Company. There is further recital in police report that Shashank is the

friend of Sunil. There is further recital in police report that Shashank invited applicant Meena Kumari in his ring ceremony and thereafter Meena Kumari attended the ring ceremony along with her brother Sunil at village Jawali. There is further recital in police report that photographs of ring ceremony were snapped. There is further recital in police report that after some time the Company was closed. There is further recital in police report that allegations against Meena Kumari are not proved till date. As per police report the matter is still under investigation. There is further recital in police report that statement of one witness will be recorded by the Investigating Agency and call details of mobile phone will be obtained.

4. Court heard learned Advocate appearing on behalf of applicant and Court also heard learned Deputy Advocate General appearing on behalf of non-applicant.

5. Submission of learned Advocate appearing on behalf of the applicant that applicant is innocent and she has been falsely implicated in present case cannot be decided at this stage till criminal case is not disposed of finally by learned trial Court after giving due opportunity of hearing to both the parties to lead evidence in support of their case.

6. Another submission of learned Advocate appearing on behalf of the applicant that applicant is female and till date there is no evidence against applicant as per police report and on this ground anticipatory bail application be allowed is accepted for the reason hereinafter mentioned. It is well settled law that at the time of granting bail following factors are considered (i) Nature and seriousness of offence (ii) The character of the evidence (iii) Circumstances which are peculiar to the accused (iv) Possibility of the presence of the accused at the trial or investigation (v) Reasonable apprehension of witnesses being tampered with (vi) The larger interests of the public or the State. See *Gurcharan Singh and Others Vs. State (Delhi Administration)*, . Also see *The State Vs. Captain Jagjit Singh*, . In the present case applicant is female and as per police report there is no incriminating evidence against applicant till date. It was held in case reported in *Sanjay Chandra Vs. CBI*, that the object of bail is to secure the appearance of the accused person at his trial and it was held that object of bail is not punitive in nature. It was held that bail is rule and committal to jail is exception. It was also held that refusal of bail is a restriction on the personal liberty of the individual guaranteed under Article 21 of the Constitution of India. It was held that it is not in the interest of justice that accused should be kept in jail for indefinite period. It is well settled law that accused is presumed to be innocent till convicted by the competent Court of law. Even as per police report there is no evidence against applicant as of today although allegations have been levelled against applicant that applicant has illicit relations with the husband of complainant.

7. Submission of learned Deputy Advocate General that anticipatory bail application filed by applicant be rejected in view of grave allegation of illicit relations with the husband of complainant is rejected being devoid of any force for the reason hereinafter mentioned. As per police report as of today there is no

incriminating evidence against applicant. Court is of the opinion that it is expedient in the ends of justice to release the applicant on anticipatory bail. It was held in case reported in *HDFC Bank Ltd. Vs. J.J. Mannan @ J.M. John Paul and Another*, that the object of Section 438 Cr.PC is that a person should not be harassed or humiliated in order to satisfy the grudge or personal vendetta of the complainant. It was held in case reported in *Parvinderjit Singh and Another Vs. State (U.T. Chandigarh) and Another*, and another that an order u/s 438 Cr.PC is a device to secure the individual liberty. It was held that it is neither a passport for the commission of crime nor a shield against any kinds of accusations.

8. In view of the fact that there is no incriminating evidence against the applicant as of today as per police report placed on record it is ordered that applicant will be released on bail on following terms and conditions on furnishing personal bond in the sum of Rs. 50,000/- (Fifty thousand) with two sureties in the like amount to the satisfaction of Investigating Officer. (i) That applicant will join investigation of case as and when called for by the Investigating Officer in accordance with law. (ii) That applicant 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 applicant will not leave India without prior permission of the Court. (iv) That applicant will not keep any connection with the husband of complainant till conclusion of trial. (v) That applicant will not harass complainant mentally by way of telephone call. (v) That applicant will give her residential address to the Investigating Officer in written manner. (vi) That applicant will attend proceedings of learned trial Court regularly.

9. In view of the above stated facts present anticipatory bail application filed u/s 438 of the Code of Criminal Procedure 1973 is allowed and disposed of. All pending application(s) if any are also disposed of.