

(2023) 01 P&H CK 0092

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous Petition (M) No. 44971 Of 2022

Prabhjot Singh @ Prabhjot Singh Gill

APPELLANT

Vs

State Of Punjab

RESPONDENT

Date of Decision : 24-01-2023

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 438, 438(2)

Indian Penal Code, 1860 — Section 406, 498A

Hindu Marriage Act, 1955 — Section 13

Citation : (2023) 01 P&H CK 0092

Hon'ble Judges : Jagmohan Bansal, J

Bench : Single Bench

Advocate : Amaninder Singh, Amish Sharma

Final Decision : Allowed

Judgement

Jagmohan Bansal, J

On 28.09.2022, the following order was passed:-

" The present petition has been filed under Section 438 Cr.P.C praying for grant of anticipatory bail to the petitioner in case FIR No.51 dated 8.6.2022 under sections 498-A, 406 I.P.C, registered at Police Station Sadar Nawanshahar, District SBS Nagar.

Learned counsel for the petitioner submits that marriage of the petitioner was solemnized with the complainant on 21.11.2014 and a son was born out of the wedlock. He submits that the 10 acres of land which was of the share of the petitioner has already been transferred in the name of the complainant wife. He further submits that the complainant wife has already filed a petition under section 13 of Hindu Marriage Act seeking divorce from the petitioner. Counsel submits that petitioner is keen to settle the dispute with the complainant wife, who is already living separately. Counsel has placed reliance upon the judicial precedent in case of Arnesh Kumar V. State of Bihar (2014) 8 SCC 273. It is

submitted that petitioner has not created any impediment in the life of his wife and son. It is submitted that the dispute is matrimonial in nature and no case for custodial interrogation of the petitioner is made out.

Notice of motion.

On the asking of the Court, Mr. Sandeep Kumar, D.A.G., Punjab accepts notice on behalf of respondent-State.

List on 24.1.2023.

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 ASI Vijay Kumar, submits that petitioner has already joined investigation and no custodial interrogation is required.

In view of the above, the petition is allowed and the interim bail granted to the petitioner vide order dated 28.09.2022 is made absolute subject to the conditions envisaged under Section 438(2) of Cr.P.C

If the petitioner or his family members/associates make any attempt to threat/intimidate the witnesses in the present case, the State would be at liberty to move an application for cancellation of bail granted by this order.

Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and Trial Court shall proceed without being prejudiced by observations of this Court.