
(2012) 01 P&H CK 0100

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. M-24339 of 2009 (O and M)

Vidur Shroff and others

APPELLANT

Vs

State of Union Territory, Chandigarh and another

RESPONDENT

Date of Decision : 18-01-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 164, 438, 438(2)
Penal Code, 1860 (IPC) — Section 120B, 365, 406

Citation : (2012) 01 P&H CK 0100

Hon'ble Judges : Ram Chand Gupta, J

Bench : Single Bench

Judgement

Ram Chand Gupta, J.—The present petition has been filed for anticipatory bail u/s 438 of Code of Criminal Procedure in FIR No. 134 dated 08.08.2009 under Sections 365, 406, 120-B of the Indian Penal Code, registered at Police Station Sector-19, Chandigarh.

2. I have heard learned counsel for the parties and have gone through the whole record including the impugned order passed by learned Additional Sessions Judge, Chandigarh dismissing anticipatory bail application filed on behalf of the petitioner.

3. Briefly stated, allegations are that petitioner No. 2 was married with son of complainant as per Hindu rites and ceremonies on 29.01.2000. Two children were born out of the wedlock. Petitioner No. 2 was living in the matrimonial home. There was a matrimonial discord between petitioner No. 2 and her in-laws. Petitioner No. 1 and 3 are maternal uncle and father of petitioner No. 2 respectively. The allegations are that petitioner No. 2 along with her children and two maid servants left the house of her in-laws by making some excuses and thereafter left for Delhi along with her father and maternal uncle. Hence, it is contended that she had taken away some jewellery and other articles.

4. This Court while issuing notice of motion on 4.9.2009 passed the following order:-

Criminal Misc. No. 44078 of 2009.

The application is allowed as prayed for subject to all just exceptions.

Criminal Misc. No. 24339 of 2009.

On oral request of counsel for the petitioners, husband of petitioner No. 2, namely Rishi Aggarwal son of Rajinder Aggarwal, House No. 561, Sector 18-C, Chandigarh, is impleaded as respondent No. 2. Office to carry out necessary addition in the memo of parties.

Learned counsel for the petitioners submits that the entire case made up by the complainant against the petitioners in the FIR is false on the face of it as petitioner No. 2 has been alleged to be accused of kidnapping of her own children. On account of some differences between the parties, she had taken the children and had gone to her parents' home. Along with her two maids servants taking care of the children at the home had accompanied her. One of the maid had come back immediately, however, the other stayed at Delhi with petitioner No. 2 for some time. Even if petitioner No. 2 had taken some personal articles with her while going to her parents' home, no offence u/s 406 IPC can possibly be made out.

Notice of motion for 18.09.2009.

In case of arrest, the petitioners shall be released on bail on furnishing of bail bonds to the satisfaction of the Arresting/Investigating Officer. They shall appear before the Investigating Officer as and when called upon for investigation. They shall also be bound by all the conditions as contained in Section 438(2) Cr.P.C.

At this stage, Mr. V.K. Sachdeva, Advocate, accepts notice on behalf of respondent No. 2.

Let notice of respondent No. 1 be served through Senior Standing Counsel, UT, Chandigarh.

5. It has been contended by learned counsel for the petitioners that they have already joined the investigation pursuant to said order dated 4.9.2009. Further contends that perusal of the FIR shows that it is a matter of matrimonial discord only and no offence is made out against the petitioners as she had gone along with her own children and maid servants and had taken away her own articles including jewellery etc.

6. It has been stated by learned counsel for the State that though the petitioners have joined the investigation, however, some recovery is to be effected. Perusal of the reply filed by the State shows that very vague reply has been filed that recovery is to be effected without specifying that recovery of which articles is to be effected from the petitioners.

7. Bail application has also been opposed by learned counsel for the complainant as well that subsequently statement u/s 164 Cr.P.C. of one of the maid servants

was also recorded and according to her, she was taken to Delhi without her consent. However, as per her statement, she went to the house of husband of petitioner No. 2 at Delhi on the same evening. Investigation of this case is pending since 08.08.2009.

8. Though petitioners have joined the investigation as per order dated 04.09.2009, however, Investigating Officer has not completed the investigation and had not recorded the statements of all the witnesses so far. It has merely been stated that statement of one of the maid servants is to be recorded without specifying as to why her statement has not been recorded so far.

9. Hence, in view of these facts and without expressing any opinion on the merits of the case, the present petition for anticipatory bail filed on behalf of petitioners Vidur Shroff, Mrs. Nupur Aggarwal and Shri Narender Nath, deserves to be allowed. Order dated 04.09.2009 granting interim bail in favour of the petitioners is, hereby, made absolute subject to compliance of conditions specified u/s 438(2) Cr.P.C.

10. The present petition stands disposed of accordingly.