

**IN THE COURT OF HARINDER SIDHU
ADDITIONAL SESSIONS JUDGE FAST TRACK SPECIAL COURT
PATIALA (PB00130)**

**CIS BA No. 1820 of 2024
Registration No. 128 of 31.05.2024
CNR No. PBPT-01-005762-2024
Date of Order: 08.07.2024
Next Date of Hearing: 10.07.2024**

Jatinder Singh aged about 35 years son of Jarnail Singh resident of Village Chamarheri PO Kheri Mandian Tehsil and District Patiala.

..... Applicant-Accused

Versus.

- 1. State of Punjab.
- 2. SHO Police Station Women Cell Patiala.

..... Respondents.

Application under section 438 of the CrPC for seeking anticipatory bail for the applicant.

FIR No.36 dated 12.05.2024
Under Sections 406 and 498A of the IPC
Police Station Women Cell Patiala.

Present: Sh. Mohit Kansal Advocate for the applicant.
Sh. Harminder Singh Additional Public Prosecutor for the State assisted by ASI Tejinderpal Singh No. 2291/Patiala the investigating officer of the case.
Sh. Gagandeep Singh Advocate counsel for the complainant.

ORDER

This order pertains to the application for grant of pre-arrest bail under Section 438 Cr.P.C filed by the applicant/accused Jatinder

Singh in case FIR no. 36 dated 12.05.2024 under Sections 406 and 498 A of the IPC registered at police station Women Cell Patiala.

2. Notice of the bail application was given to the State and the learned Additional Public Prosecutor for the State Sh. Harminder Singh along with the investigating officer ASI Tejinder Singh appeared to represent the state and contest the bail application. Sh. Gagandeep Singh Advocate appeared and filed written arguments on behalf of the complainant. The record of investigation has been produced by the investigating officer ASI Tejinderpal Singh No. 2291/Patiala.

3. Vide the order dated 03.06.2024 since the parties were willing for amicable settlement of the matrimonial dispute the matter was referred to Mediation and Conciliation centre and the bail applicant was granted the concession of interim anticipatory bail in order to facilitate his appearance before the mediation centre.

4. Thereafter, no amicable settlement was arrived at between the parties before the Mediation and Conciliation centre and a report was received from the said authority as 'unsettled', hence the case has been put up for adjudication of the anticipatory bail on merits thereof.

5. The learned counsel for the bail applicant/accused has argued that the bail applicant has been falsely implicated in the present case at the instance of the complainant and no case is made out against him. The FIR is a result of matrimonial discord between the parties over a period of ten years that they have been married. It was further stated that no dowry articles were given by the complainant or her parents nor any were demanded. After the marriage the parties have been residing together and two children namely Ruhi and Simran were born out of the wedlock.

The learned counsel would further contend that litigation is pending before the Family Court at Rajpura regarding custody of the children. Divorce proceedings and proceedings under the, 'Protection of Women from Domestic Violence Act 2005', are also pending. The learned counsel would further emphasize that earlier in the year 2020 the complainant had filed a complaint before the police on completely different allegations but she withdrew the said complaint and copies of said statements have been brought on the record. He stated that now another complaint has been filed on false allegations upon which FIR has been registered. Further it was agitated that the matrimonial life of the parties was disrupted by the conduct of the complainant towards the bail applicant and his family members. The complainant is a quarrelsome lady, rude and abusive. The family of the complainant interferes in their matrimonial life. The learned counsel further elaborated upon various instances mentioned in the bail application regarding the conduct of the complainant. Summing up his arguments the learned counsel stated that the FIR is a result of marital discord and the parties not being able to pull along. The bail applicant is ready to join the investigation and to cooperate accordingly and in fact in pursuance of the earlier order he had already joined the investigation. Hence a prayer for grant of pre-arrest bail to the bail applicant has been made.

6. On the other hand the learned Additional Public Prosecutor for the state assisted by the learned counsel for the complainant opposed the grant of anticipatory bail arguing that the allegations against the petitioner/bail applicant are serious in nature. The dowry articles and other gift articles and the *istri dhan* of the complainant

are yet to be recovered for which custodial interrogation of the accused would be required. The bail applicant/accused is in an illicit relationship with another lady and due to this reason he has thrown the complainant and his daughters out of his house in the year 2019. The petition under the 'Protection of Women from Domestic Violence Act 2005' is pending. The bail applicant has also filed a divorce petition which is pending in the Family Courts at Patiala and the complainant has filed a petition under section 9 of the Hindu Marriage Act which is also pending in the family Courts at Patiala. Hence a prayer for dismissal of the bail application was made.

7. On an appreciation of the contentions put forth by the learned counsel for the bail applicant/accused; putting forth his plea for grant of pre-arrest bail to the applicant and the contentions of the learned Additional Public Prosecutor for the State, assisted by the counsel for the complainant opposing the bail application and having carefully gone through the record of investigation, it transpires that the prime issue for adjudication before the court is whether the bail applicant is entitled to the relief of pre arrest bail/anticipatory bail. Admittedly the parties i.e. the complainant and the bail applicant/accused were married on 12.10.2023 and two female children were born out of their wedlock. The arguments of the respective counsel and the documents brought on record reveal that the parties are in litigation before various courts since the year 2019 and in fact a police complaint was also filed by the present complainant in the year 2020 which was withdrawn by her on the assertion that she would plead her case before the courts where the litigation under the,

‘Protection of Women from Domestic Violence Act’ and the ‘Hindu Marriage Act’ were pending. Subsequently in the year 2024 a complaint has been again filed by the complainant which led to the registration of the present FIR. Thus the circumstances on the file reveal that the genesis of the FIR in fact is the marital discord between the bail applicant/accused who is the husband of the complainant and the complainant since the year 2019. As is revealed from the written arguments the bone of contention so far as the complainant is concerned is the aspect of the recovery of the dowry articles/gifts/istridhan. To the contrary the plea of the bail applicant is that no dowry articles were given nor any gifts were exchanged. Thus there are allegations and counter allegations and these apparently would remain a matter of evidence to be seen at the time of the trial; otherwise there are no specific instances of cruelty ascribed to the bail applicant. Keeping in view the totality of the circumstances brought forth before this court and the facts of the present case at this stage of consideration on the bail application; it would suffice if the bail applicant joins the investigation and cooperates therein. Hence without further commenting on the merits of the case, it is ordered that the bail applicant/accused Jatinder Singh shall be released on interim bail in the event of his arrest on furnishing of personal and surety bonds to the satisfaction of the investigating officer/arresting officer subject to the following conditions:

- (i) The applicant shall make himself available as and when required by the investigating agency for investigation.
- (ii) The applicant shall not induce or threaten any of the prosecution witnesses or tamper with the evidence of the

prosecution in any manner.

- (iii) That applicant shall not leave the country without prior permission of the court.

8. Lest it may be misconstrued any observation made aforesaid would not effect the case on its merits. The record of investigation file be returned.

9. Now case is adjourned to 10.07.2024 on which date the investigating officer shall appear and apprise the court regarding the joining of the bail applicant/accused in the investigation.

Pronounced in the open court.
Date of order :08.07.2024

Tanu Sharma.

(Harinder Sidhu)
Additional Sessions Judge
Fast Track Special Court
Patiala/UID No.PB00130