

PBTT010034662023



Presented on : 08-06-2023
Registered on : 09-06-2023
Decided on : 05-07-2023
Duration : 0 years, 0 months, 27 days

**IN THE COURT OF NEETIKA VERMA (UID No. PB0209)
ADDITIONAL SESSIONS JUDGE, TARN TARAN**

**Bail Application no. 1685 of 2023
Date of Order :05.07.2023**

Sourabh Sharma, aged about 35 years s/o Vijay Kumar, r/o 149, New Model Town, Chheharta, Police Commissionerate, Amritsar.

.....Accused/petitioner

Versus

State.

(First Bail application under Section 438 Cr.P.C.)

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F.I.R.No. 21 dated 12.02.2023

Under Section : 498-A IPC (336,354,324,326,379-B IPC
were deleted by the police).

Police Station : Bhikhiwind.

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Present : Sh. Jaideep Ratti Advocate, learned counsel for
the accused-applicant.
Shri Satinderjit Singh Gill, learned Additional Public
Prosecutor for the State assisted by Sh. Jatinderpal Singh,
Advocate counsel for complainant.
ASI Tasveer Singh No. 1170/Tarn Taran along with police
record.

ORDER

The above named accused has filed this application for grant
of pre-arrest bail under Section 438 of Criminal Procedure
Code(hereinafter referred to as Cr.P.C.), in case F.I.R.No. 21 dated

12.02.2023, Under Section : 498-A IPC (336,354,324,326,379-B IPC were deleted by the police), Police Station : Bhikhiwind.

2. Notice of the bail application was issued to the State and police record was requisitioned.

COMPLIANCE OF DIRECTIVE CONTAINED IN ORDER DATED 28.07.2021 PASSED BY HON'BLE PUNJAB AND HARYANA HIGH COURT IN CRM-M-1695-2021

3. Carried out. Report of investigating officer attested by the Additional Public Prosecutor about pendency of or of any former adjudication of bail application before or by any Court under the provisions of Cr.P.C and the result thereof received. It was reported that neither any bail application relating to this case was pending and nor had it been decided earlier. Such a declaration is also contained in the bail application.

Ahlmad had also reported that according to the information available in the CIS system, no other bail application relating to this case is pending or decided by any Court.

ABSTRACT OF FIR:

4. The present FIR was registered on the statement of complainant Minakshi Sharma. The allegations put-forth by the complainant against Sourabh Sharma, her husband, Vijay Sharma (father in law), Paramjit @ Pammi (mother in law) are that she was constantly harassed and tortured by her in laws and dowry demands were raised. It has also been alleged by her that at the time of marriage, her parents had given sufficient dowry articles to her in laws family. After marriage, the complainant came to know that the accused Sourabh Sharma was only 10th pass and not an MBA as stated by the accused. She was constantly

harassed and taunted by all her in laws. When the complainant became pregnant, abortion was forcibly conducted upon her by the accused and his family members by stating that they do not want a child for three years. Thereafter, she developed medical complication in her tubes and was got treated by her parents. The complainant thereafter gave birth to a female child on 24.08.2018. The accused and his parents again started taunting the complainant for giving birth to a female child as they wanted a male child. They started demanding Rs. 20 lacs from her parents and also gave severe beatings to her on 20.02.2019. On 23.09.2022, the parents of complainant had visited her matrimonial home and the accused in connivance with each other hurled filthy abuses upon the parents of complainant and at this parents of complainant took the complainant along-with them. On 24.09.2022, the complainant was coming from Amritsar alongwith her brother Navdeep Sharma and they were followed by remaining members in a separate car. The applicant/accused alongwith other unidentified persons followed the complainant in a WagonR Car. They stopped the car of the complainant and fired at them. The accused/applicant Sourabh Sharma opened fire in the sky with his pistol. The complainant and her brother were taken out of the car and were repeatedly given beatings by all the accused and they had a dattar with them. The accused tried to strangulate the complainant with a rope. Navdeep Sharma was given injury with a baseball and dattar. Father in law of the complainant tore away her shirt. Thereafter, all the accused went away giving threats to the complainant and her family. On the basis of this statement, the present FIR was registered against the accused.

5 However, later on during the course of investigation, the offence punishable under Sections 336,354,324,326,379-B IPC and under Section 25/27 Arms Act were deleted by the police.

ARGUMENTS OF LEARNED ADDL. PUBLIC PROSECUTOR AND LEARNED COUNSEL FOR COMPLAINANT.

6. Notice of the bail application was given to the complainant and the state.

7 The ld. Counsel for complainant has vehemently argued that the police has conducted a faulty investigation and the offence under Sections 336,354,324,326,379-B IPC and under Section 25/27 Arms Act have been wrongfully deleted by the police when there are specific allegations against the accused. In such a scenario, it has been submitted that the applicant/accused does not deserve the benefit of anticipatory bail.

ARGUMENTS RAISED BY LEARNED COUNSEL FOR APPLICANT/ACCUSED:-

8 Ld. Counsel for applicant/accused however on the other contended that the present case has been registered against the accused and his family with an ulterior motive. It has been submitted that it is the complainant who herself left the matrimonial home without any just and sufficient cause. It has been further contended that the applicant/accused is ready to join the investigation and cooperate the investigating officer.

PREVIOUS ANTECEDENTS OF APPLICANT/ACCUSED:

9. ASI Tasveer Singh no. 1170/Tarn Taran has suffered statement in the court that except the present FIR, no other criminal case is registered against the applicant-accused.

GUIDING PARAMETERS

As outlined in *Gurbaksh Singh Sibbia v. State of Punjab*, (SC) : Law Finder Doc Id # 104574 reported in 1980 AIR(SC) 1632 *Bhadresh Bipinbhai Sheth v. State of Gujarat and Another* : Law Finder Doc Id # 705395 reported in 2015 AIR(SC) 3090 *Sushila Aggarwal and others - Petitioners Versus State (NCT of Delhi) and another – Respondents* : Law Finder Doc Id # 1674499 reported in 2020 AIR (SC) 831

(a) The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made; (b) The antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a court in respect of any cognizable offence; (c) The possibility of the applicant to flee from justice; (d) The possibility of the accused's likelihood to repeat similar or other offences; (e) Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her; (f) Impact of grant of anticipatory bail particularly in cases of large magnitude affecting a very large number of people; (g) The courts must evaluate the entire available material against the accused very carefully. The court must also clearly comprehend the exact role of the accused in the case. The cases in which the accused is implicated with the help of Sections 34 and 149 of the Penal Code, 1860 the court should consider with even greater care and caution, because over implication in the cases is a matter of common knowledge and concern; (h) While considering the prayer for grant of anticipatory bail, a balance has to be struck between two factors, namely, no prejudice should be caused to free, fair and full investigation, and there should be prevention of harassment, humiliation and unjustified detention of the accused; (i) The Court should consider reasonable apprehension of tampering of the witness or apprehension of threat to the complainant; (j) Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the course of events, the accused is entitled to an order of bail.

DISCUSSION:

10 Perusal of the file reveals that the allegations against the accused-applicant are that the applicant/accused along-with the other co accused(non applicant) had raised dowry demands from the complainant and physically assaulted her and caused mental torture and harassment.

Perusal of contents of the FIR further transpires that it is matrimonial dispute between the parties. The provisions of law are meant to subserve the ends of justice and not to defeat them. The contention so

raised by the complainant that the police has conducted faulty investigation is not tenable at this stage. The investigation is still in progress and the main allegations against the accused/applicant who happens to be the husband of the complainant are that he had committed cruelty upon the complainant. In matrimonial disputes the courts also endeavour to settle the dispute between the parties amicably. Sending the accused party behind bars would further sow the seeds of animosity to such an extent leaving no room for rehabilitation in future. In the present case before us the allegations of mental cruelty or torture are not that grave so as to put the accused/applicant behind bars. There are general allegations of cruelty upon the applicant/accused. Nothing is to be recovered from the accused/applicant to warrant his custodial interrogation as the FIR has been lodged under Section 498-A IPC only. The accused/applicant being husband of complainant, has given an undertaking that he is ready to join the investigation and to assist the investigating officer. In such an eventuality, no useful purpose would be served by detaining him behind bars as nothing is to be recovered from him. Rather, the joining of the accused/applicant would help in expediting the investigation process.

CONCLUSION:

11 In view of above discussion and observations, the application under adjudication is allowed. As such the applicant/accused namely Sourabh Sharma is directed to join the investigation as and when called by the investigating officer and the investigating/arresting officer shall admit them on interim bail to its own satisfaction till the next date of the hearing subject to conditions:-

- 1 the accused-applicant shall make himself available for interrogation by the investigating officer/competent police officer as and when required;
2. the applicant/accused 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 to any police officer;
- 3 the accused-applicant shall not leave India without the previous permission of the Court, including the trial Court.
- 4 the accused- applicant shall attend the proceedings in accordance with the conditions of the bonds so executed under Chapter XXXIII of Cr.P.C.
- 5 the accused- applicant shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected;
- 6 the accused-applicant shall not tamper with the evidence by any means;
- 7 the accused-applicant shall appear before the trial court on each date of hearing unless his personal appearance is exempted.

In case of violation of any of the conditions so imposed upon the accused-applicant, the investigating officer will be at liberty to file an appropriate application seeking cancellation of the bail granted to the applicant through the present order. Further, in case of breach of any of the conditions so imposed through the present order by the accused-applicant, the trial court will be at liberty to cancel the bail order of the accused. Now to come up on 24.07.2023 for awaiting the report of

investigating officer regarding the fact, whether applicants/accused have joined the investigation or not.

Intimation be sent to SHO of concerned police station. Police record be returned forthwith.

Pronounced in open court
Dated: 05.07.2023

Neetika Verma,
Additional Sessions Judge
Tarn Taran/UID-PB0209

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Present : Sh. Jaideep Ratti Advocate, learned counsel for the accused-applicant.
Shri Satinderjit Singh Gill, learned Additional Public Prosecutor for the State assisted by Sh. Jatinderpal Singh, Advocate counsel for complainant.
ASI Tasveer Singh No. 1170/Tarn Taran along with police record.

Police record has been received today. Statement of ASI Tasveer Singh has been recorded. Arguments heard. Vide my separate detailed order of even date, the present bail application stands allowed. As such the applicant/accused namely Sourabh Sharma is directed to join the investigation as and when called by the investigating officer and the investigating/arresting officer shall admit them on interim bail to its own satisfaction till the next date of the hearing i.e. 24.07.2023.

Pronounced in open court
Dated: 06.07.2023

Neetika Verma,
Additional Sessions Judge
Tarn Taran/UID-PB0209

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