

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-30797 of 2021

Date of Decision: 04.08.2021

Harjinder Singh

Petitioner

Versus

State of Punjab and another

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Balram Prashar, Advocate for the petitioner.
Ms. Monika Jalota, DAG, Punjab.

AVNEESH JHINGAN, J (Oral):

The matter is taken up for hearing through video conference due to COVID-19 situation.

This petition under Section 438 Cr.P.C. is filed seeking anticipatory bail in the event of arrest of the petitioner in the complaint moved by respondent No. 2.

The present case is at the stage of complaint and no FIR has been registered. The matter relates to matrimonial dispute and the allegations are demand of dowry.

Supreme Court in *Arnesh Kumar v. State of Bihar (2014) 8 SCC 273* has laid down the following principles:

“(1) All the State Governments to instruct its police officers not to automatically arrest when a case under Section 498-A of the IPC is registered but to satisfy themselves about the necessity for arrest under the parameters laid down above flowing from Section 41, Cr.PC;

(2) All police officers be provided with a check list containing specified sub- clauses under Section 41(1)(b)(ii);

(3) The police officer shall forward the check list duly filed and furnish the reasons and materials which

necessitated the arrest, while forwarding/producing the accused before the Magistrate for further detention;

(4) The Magistrate while authorising detention of the accused shall peruse the report furnished by the police officer in terms aforesaid and only after recording its satisfaction, the Magistrate will authorise detention;

(5) The decision not to arrest an accused, be forwarded to the Magistrate within two weeks from the date of the institution of the case with a copy to the Magistrate which may be extended by the Superintendent of police of the district for the reasons to be recorded in writing;

(6) Notice of appearance in terms of Section 41A of Cr.PC be served on the accused within two weeks from the date of institution of the case, which may be extended by the Superintendent of Police of the District for the reasons to be recorded in writing;

(7) Failure to comply with the directions aforesaid shall apart from rendering the police officers concerned liable for departmental action, they shall also be liable to be punished for contempt of court to be instituted before High Court having territorial jurisdiction.

(8) Authorising detention without recording reasons as aforesaid by the judicial Magistrate concerned shall be liable for departmental action by the appropriate High Court.”

Learned counsel for the petitioner seeks permission to withdraw the present petition at this stage with liberty to approach again, if need so arises.

Dismissed as withdrawn with liberty as prayed for.

[AVNEESH JHINGAN]
JUDGE

4th August, 2021
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1. Whether speaking/ reasoned	:	Yes / No
2. Whether reportable	:	Yes / No