

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CRM-M-1248-2022

Date of Decision: February 01, 2022

Deepti

.... *Petitioner*

Versus

State of Haryana and another

.... *Respondents*

CORAM : HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Sumit Sangwan, Advocate,
for the petitioner.

*(The case has been taken up through video conferencing on
Account of Covid-19 pandemic)*

Vivek Puri, J.

Present petition under Section 439(2) read with Section 482 Cr.P.C. has been instituted by the petitioner seeking cancellation of anticipatory bail granted to respondent no.2 vide order dated 29.11.2021 in Bail Application No. 555 of 2021, in case FIR No. 81, dated 07.10.2021, under Sections 498-A, 323, 342, 377, 506, 406, 34 IPC, registered at Police Station Women Police Station, District Charkhi Dadri.

Briefly, an F.I.R. bearing No. 81, dated 07.10.2021 has been registered on the basis of the complaint submitted by the petitioner alleging that her marriage was solemnized with respondent no.2 on 10.02.2019. It has been *inter alia* alleged that the respondent no.2 had been working in

Deenbhandu Chhotu Ram University, Sonipat and had not been staying with the petitioner and furthermore, not performing his duties as husband. The petitioner was pressurized to abort the fetus during pregnancy, however, she delivered a baby. The family members of her in-laws had been harassing and beating her. Harender, the elder brother-in-law (Jeth) had been entering the room of the petitioner under the influence of alcohol and had been abusing her and doing obscene activities. The father of the petitioner had given dowry articles, plot, vehicle and Scooty in the marriage. The family members of in-laws had been saying that those articles were in the name of the petitioner and nothing was given to them. The mother-in-law of the petitioner had been asking for money in lieu of dowry articles. The respondent no.2, husband of the petitioner, had been making un-natural relations with the petitioner against her wish. The respondent no.2 had been asking the petitioner to bring Rs. 10 lakhs from her parental house.

In terms of the order dated 29.11.2021, the application for anticipatory bail under Section 438 Cr.P.C. instituted by the respondent no.2 was allowed by the learned Additional Sessions Judge, Charkhi Dadri. The aforesaid order has been impugned in the instant petition.

It has been contended by the learned counsel for the petitioner that the recovery of the dowry articles is yet to be effected and the bail has been granted on flimsy grounds. There are sufficient and reasonable grounds for custodial interrogation of the respondent no.2 and no extra

ordinary circumstances are made out to extend the concession of pre-arrest bail to the respondent no.2.

It may be mentioned here that the power of cancellation of bail has to be exercised with care and circumspection. The cancellation of bail has to be resorted only in case of patent perversity. The bail can be cancelled in the event there is an interference in the due course of justice, hampering investigation, abusing the freedom granted by the Court, intimidation of the witnesses etc. Such reasons for cancellation of bail can only be termed to be illustrative and not exhaustive. It is left to the sound judicial discretion of the Court and the bail is required to be cancelled in the event compelling circumstances are made out for such an indulgence. The rejection of bail in a non-bailable case and the cancellation of bail so granted have to be dealt with and considered on the basis of separate yard sticks. The bail already granted can be cancelled in the event there are cogent and overwhelming circumstances to do so.

On advertng to the merits of the present case, the learned Additional Sessions Judge has observed that the allegations with regard to unnatural sex and demand of Rs. 10 lakhs have not been mentioned in an earlier complaint bearing diary No. 725-PG dated 16.06.2021 and the said complaint was withdrawn vide statement dated 03.07.2021. The another factor which weighed in the mind of the Court was to the effect that the allegations with regard to the commission of offence under Section 354 and 509 IPC have not been found to be true and the same have been dropped by the investigating agency. Even it has been observed that on the aspect of

dowry articles, if any, the learned counsel for the accused has undertaken that the accused shall get the dowry articles recovered, if required.

Now, it has to be seen as to whether the reasons which weighed in the mind of the Court while granting pre-arrest bail can be termed to be sufficient to exercise the powers granted under Section 438 Cr.P.C.

The learned counsel for the petitioner has not disputed the fact that the brother and mother of respondent no.2 have been found to be innocent. It has also not been disputed that the detail of dowry articles has not been specified in the FIR. It may be mentioned here that there is allegation to the effect that the father of the petitioner had given dowry articles, plot, vehicle and Scooty in the marriage, but the same were in the name of the petitioner. Even the detail of the dowry articles has also not been specified. It has also not been disputed that at the earlier instance, a complaint was submitted and there was no allegation with respect to unnatural sex or demand of Rs. 10 lakhs alleged to have been raised by the respondent no.2. Even there is no allegation to the effect that the respondent no.2 has misused or abused the concession of bail. Even there is no allegation that there is any apprehension to the effect that the respondent no.2 will in any manner flee from justice, hamper the investigation or intimidate the witnesses.

In these set of circumstances, the learned Additional Sessions Judge has observed improvements, improbabilities and infirmities in the case as propounded by the complainant and in such circumstances, it was

fairly justified in extending the concession of pre-arrest bail to the respondent no.2. The reasons which weighed in the mind of the Court while granting pre-arrest bail can be termed to be sufficient to exercise the powers granted under Section 438 Cr.P.C.

The impugned order even when tested on merit indicates that the same does not suffer from any illegality, arbitrariness or perversity which may provide any justified ground for indulgence by this Court for cancellation thereof.

Present petition is dismissed accordingly.

February 01, 2022
vkd

[Vivek Puri]
Judge

Whether speaking/reasoned : Yes / No
Whether reportable : Yes / No