

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

CRM-M-35025-2022

Date of Decision: August 08, 2022

Jatinder Kaur

.... Petitioner

Versus

The State of Punjab and another

.... Respondents

CORAM : HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. J.S. Jaidka, Advocate,
for the petitioner.

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 13.07.2022 by the Court of learned Additional Sessions Judge, Jalandhar in case FIR No. 69, dated 08.06.2022, under Sections 498-A, 406, 509 of the Indian Penal Code, registered at Police Station Bhogpur, District Jalandhar.

Briefly, the F.I.R. has been registered on the allegations that the marriage of the petitioner was solemnized

with Jagmohan Singh, the son of the respondent no.2 on 10.12.2017. The husband of the petitioner had been living in United States of America since 2009. He visited India in November, 2017 and hurriedly, they got married. Substantial dowry articles were given at the time of marriage. The husband of the petitioner went back to America. The respondent no.2 and the mother-in-law of the petitioner started teasing her on account of inferior quality of dowry articles and bringing less money. The mother-in-law of the petitioner died on 25.12.2018. Thereafter, the respondent no.2 had been troubling the petitioner on petty issues. The respondent no.2 had been asking the petitioner to bring more dowry and money as her father is also residing abroad. The respondent no.2 has created an atmosphere of fear in the family. He has mis-appropriated the jewellery and articles of istrydhan.

In terms of the order dated 13.07.2022, the application of anticipatory bail instituted by the respondent no.2 was allowed by the Court of learned Additional Sessions Judge, Jalandhar. The aforesaid order has been impugned in the instant petition.

It has been contended by the learned counsel for the petitioner that the husband of the petitioner had dumped her within a period of one month of the marriage and has

gone abroad. The articles of the jewellery of the petitioner are in custody of the respondent no.2 and even the respondent no.2 is threatening to go abroad. Consequently, the cancellation of bail has been sought.

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 adverting to the merits of the present case, it may be mentioned here that the husband of the petitioner is stated to be residing in United States of America since the year 2009. Even as per the allegation in the FIR, he came to

India in November, 2017 and the marriage was solemnized hurriedly. In the event, the husband of the petitioner has deserted her in a short period of one month from the marriage and gone abroad, it cannot be a circumstance to decline the bail to the respondent no.2 who is the father-in-law of the petitioner.

Moreover, it has been argued that the jewellery items are in custody of the respondent no.2. However, the perusal of the impugned order indicates that it has been specifically and categorically mentioned that the respondent no.2 has joined the investigation and got recovered the gold ornaments. Furthermore, it has also been observed that the anticipatory bail cannot be rejected on the ground that dowry articles were not recovered from the accused by placing reliance upon **Bhupinder Singh and others vs. State of Punjab, 2014(2) RCR (Criminal) 109.**

In this regard, it may be mentioned here that the offence under Section 406 IPC consists of criminal breach of trust. It will remain a moot and debatable point during the course of trial as to whether any articles of istrydhan were entrusted to the respondent no.2, if entrusted, whether any demand of return was raised and if so, as to whether the respondent no.2 had refused to return the said articles. The proceedings under Sections 406 and 498-A IPC are not meant

for recovery of dowry articles. Furthermore, in pursuance of the interim directions issued by the Court below, respondent no.2 has joined the investigation. Moreover, vague allegations have been raised with regard to the demand of dowry articles. It has not been specified as to which article was demanded and when any such demand was raised. The respondent no.2 is the father-in-law of the petitioner. There is nothing to suggest that the respondent no.2 has misused or abused the concession of bail.

Lastly, it may be mentioned here that it has been argued that the respondent no.2 is threatening to go abroad. In this regard, suffice is to say that while granting anticipatory bail, the learned Court below has also directed that the respondent no.2 shall not leave India without the previous permission of the learned trial Court. Consequently, the apprehension of the petitioner that the respondent no.2 is contemplating to go abroad with an intention to evade the process of law stands dispelled.

In these set of circumstances, 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.

August 08, 2022
vkd

[Vivek Puri]
Judge

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