

In the High Court for the States of Punjab and Haryana at
Chandigarh

CRM-M-36652-2023 (O&M)

Date of Decision: November 07, 2023

Tamanna

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Dhawaljeet Dutta, Advocate,
for the petitioner.

Ms. Ruchika Sabherwal, DAG, Punjab.

Vivek Puri, J.

CRM-46968-2023

1. This is an application for placing on record the interim order dated 30.06.2023 passed by learned Additional Sessions Judge, Gurdaspur (Annexure P/5).

2. Annexure P/5 is taken on record. Registry is directed to tag the same at the appropriate place.

3. CRM is disposed of.

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4. The petitioner is seeking cancellation of anticipatory bail granted to the respondent nos. 2 and 3 in terms of the order dated 11.07.2023 (Annexure P-4) passed

by the Court of learned Additional Sessions Judge, Gurdaspur in the case bearing FIR No. 131, dated 22.06.2023, under Sections 498-A, 406 of the Indian Penal Code (for short 'IPC'), registered at Police Station City Gurdaspur, District Gurdaspur.

5. Briefly, the FIR has been registered on the allegations that the marriage of the petitioner was solemnized with the son of the respondent nos. 2 and 3 on 22.01.2019. The in-laws' family of the petitioner had been harassing her on the score that her parents had given Bullet motorcycle and not a car in the marriage. After one month of the marriage, the husband of the petitioner had gone to Iraq and respondent no.2 along with Shama Rani, sister-in-law of the petitioner started harassing her. After about one year of the marriage, respondent nos. 2 and 3 along with Shama Rani, sister-in-law and Raj Kumar @ Rinku, brother-in-law and Baljit Kaur @ Babbu, sister-in-law started harassing and taunting the petitioner. On 25.05.2020, the petitioner had visited the doctor along with her brother-in-law and sister-in-law and after taking medicine, they left her in her parental house. Respondent no.3 and Kartar Chand, the parental uncle-in-law visited her parental house to take her back, but they did not visited the parental house and took her from outside. The family members of her in-laws took the signatures of the petitioner on blank papers and

threatened her with dire consequences. The husband of the petitioner had been giving Rs. 7000/- per month to her as maintenance. On 07.11.2022, the husband of the petitioner went to America and thereafter, the in-laws' family in connivance with each other ousted her from the house.

6. Respondent nos. 2 and 3 moved an application under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail in the Court of learned Additional Sessions Judge, Gurdaspur and the same was allowed in terms of the impugned order dated 11.07.2023.

7. Learned counsel for the petitioner has primarily contended that the recovery of dowry articles is to be effected and as such, the anticipatory bail granted to respondent nos. 2 and 3 is liable to be cancelled.

8. 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.

9. The impugned order has been passed by the Court of learned Additional Sessions Judge by placing reliance upon the following two decisions:-

“i) *Prit Pal Singh vs. State of Punjab and Haryana, 2014(5) RCR (Criminal) 771;*

ii) *Kuwarpal Singh vs. State of Punjab, CRM-M-39621-2021, decided on 19.01.2022.”*

10. By relying upon the aforesaid decisions, it has been observed that mere non-recovery of some disputed dowry articles cannot by itself be ground of denial of bail.

11. Learned counsel for the petitioner has not been able to draw any distinction from the aforesaid decisions. 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 istridhan were entrusted to respondent nos.2 and 3, who are the mother-in-law and father-in-law, respectively, of the petitioner, if entrusted, whether any demand of return was raised and if so, as to whether the respondent nos.2 and 3 have refused to return and mis-appropriated the said

articles. The proceedings under Sections 406 and 498-A IPC are not meant for recovery of dowry articles. Furthermore, it remains disputed as to whether any such articles were entrusted or not and in such circumstances, the refusal of bail only on the score that no recovery has been effected, particularly when respondent nos. 2 and 3 have joined the investigation cannot be termed to be justified.

12. Moreover, there is no allegation to the effect that respondent nos. 2 and 3 have misused or abused the concession of bail. Even there is no allegation that there is any apprehension to the effect that respondent nos. 2 and 3 will in any manner flee from justice, hamper the investigation or intimidate the witness. 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.

13. 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.

14. Present petition is dismissed accordingly.

November 07, 2023
vkd

(Vivek Puri)
Judge

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