

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-40787-2022

Date of Decision:08.05.2023

BALJINDER KAUR AND ANR

..... Petitioners

Versus

STATE OF PUNJAB AND ANOTHER

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Vishal Sharma, Advocate for the petitioners.

Mr. Shiva Khurmi, AAG, Punjab
assisted by S.I. Tarlok Chand.

Ms. Sukhveer Kaur, Advocate for respondent No.2.

JAGMOHAN BANSAL, J. (Oral)

1. On 29.09.2022 following order was passed:

“Learned counsel for the petitioners has paid in cash an amount of Rs.25,000/- as litigation expenses to the counsel for respondent no.2 and the same has been duly accepted.

Learned counsel for the parties are ad idem that the matter may be referred to the Mediation & Conciliation Centre of this court to explore the possibility of amicable settlement between the parties.

In view of the above position, parties are directed to appear before the Mediation & Conciliation Centre of this court on 3.11.2022.

Learned State counsel submits that investigation could not be completed as petitioners were not directed to join investigation.

In view of the above position, order dated 7.9.2022 is modified to the extent of directing the

petitioners to join the investigation.

Adjourned to 6.2.2023.

In the meanwhile, in the event of arrest, the petitioners shall be released on interim bail subject to the satisfaction of the Arresting Officer/Investigating Officer. The petitioners shall join investigation before the Investigating Agency/Officer. They shall abide by the following conditions as envisaged under Section 438(2) Cr.P.C:-

(i) That the petitioners shall make themselves available for interrogation by a police officer as and when required to do so.

(ii) That the petitioners 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 or to any police officer.

(iii) That the petitioners shall not leave India without prior permission of the court.”

2. Learned counsel for the petitioners submits that petitioners have already handed over dowry articles which were in their possession.

3. Learned counsel for respondent No.2 submits that partial recovery of gold articles is still pending.

4. Learned State counsel, on instructions from SI Sulakhan Singh, submits that petitioners have joined investigation, however, recovery of gold articles yet has to be affected. He further submits that no custodial interrogation of the petitioner is required.

5. In the case in hand, the petitioners have admittedly joined the investigation and only contention of the State as well as counsel for the complainant is that partial recovery of *istridhan* is

still pending. The Hon'ble Supreme Court in *Arnesh Kumar V. State of Bihar; (2014) 8 SCC 273* as well as *Social Action Reform Forum For Manav Adhikar and Anr. Vs. Union of India and Others; (2018) 10 SCC 443* has held that bail cannot be denied on the ground of recovery of dowry articles.

6. In view of the above facts and circumstances, the petition is allowed and the interim bail granted to the petitioners vide order dated 29.09.2022 is made absolute subject to the conditions envisaged under Section 438(2) of Cr.P.C.

7. If the petitioners or their family members/associates make any attempt to threat/intimidate the witnesses in the present case, the State would be at liberty to move an application for cancellation of bail granted by this order.

8. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and Trial Court shall proceed without being prejudiced by observations of this Court.

(JAGMOHAN BANSAL)
JUDGE

08.05.2023

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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No