

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

101+209

CRM-M-54760-2021 (O&M)

Date of Decision: 21.02.2023

Ajay Kumar Pihal

...Petitioner

Versus

State of Punjab and Another

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Nitin Thatai, Advocate for the petitioner

Mr. Amish Sharma, AAG, Punjab
(assisted by ASI Jasbir Singh)

JAGMOHAN BANSAL, J. (ORAL)

On 13.01.2022, the following order was passed:-

“Instant petition has been filed under Section 438 of Code of Criminal Procedure, 1973, seeking grant of anticipatory bail in case FIR No.104 dated 30.11.2021, registered under Sections 406/498-A of IPC, 1860 at Police Station Dhakoli, District SAS Nagar, Punjab, Annexure P-1.

Counsel for the petitioner submits that the FIR is an outcome of a marital dispute which arose within 4 months of the matrimony. He submits that at the time of deserting the petitioner, complainant/ respondent No.2 took away most of the articles. Still further, by inviting the attention of this court to the additional affidavit, Annexure A-9, he submits that the petitioner is willing to return the articles mentioned by him in para 2 of the affidavit. Counsel for the petitioner submits that he has instructions to state that there is a probability of settlement between the parties as there is a child out of the marriage and the petitioner is ready to pay the travelling and litigation expenses of Rs.30,000/- to the complainant on her appearance.

Notice of motion.

On asking of the Court, Mr. P.S.Walia, AAG, Punjab, who is present through video conferencing, accepts notice on behalf of respondent No.1-State..

List on 24.03.2022.

The petitioner shall join the investigation on 21.02.2022 and on the day, he appears before the Investigating Agency, he will return all the dowry articles mentioned by him in para 2 of his additional affidavit, which shall be further returned/handed over to the complainant/ respondent No.2.

The petitioner would appear before the Investigating Officer as and when called for and in the event of arrest, the petitioner shall be admitted to interim bail on furnishing personal and surety bonds to the satisfaction of Arresting/Investigating Officer. He shall also comply with the conditions laid down in Section 438(2) Cr.P.C.

Respondent No.2 be served for the date fixed.

The petitioner shall pay Rs.30,000/- to the complainant/ respondent No.2 on the day, she causes appearance before this Court.”

Learned State counsel, on instructions from ASI Jasbir Singh, submits that petitioner has joined investigation, however partial recovery of dowry articles is still pending.

On being confronted with this fact, learned counsel for the petitioner drew attention of this Court to affidavit dated 07.01.2022 of the petitioner. As per the said affidavit, the petitioner has already handed over all the articles which were in his possession and most of the articles were already taken away by the complainant at the time of leaving her matrimonial home.

Without going into the controversy of recovery of dowry articles, the petition is allowed and the interim bail granted to the petitioner vide order dated 13.01.2022 is made absolute subject to the conditions envisaged under Section 438(2) of Cr.P.C.

If the petitioner or his 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.

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.

Pending application also stands disposed of.

(JAGMOHAN BANSAL)
JUDGE

21.02.2023
Mohit Kumar

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>