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*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Judgment delivered on: 21.07.2023

+ CRL.M.C. 5011/2023 & CRL.M.As. 19052-53/2023

MS. B

..... Petitioner

versus

STATE ON NCT OF DELHI AND ANR

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Mr. Rajesh Vig, Advocate

versus

For the Respondent : Mr. Satinder Singh Bawa, APP with SI
Amit Kumar, Tilak Nagar

CORAM:

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

JUDGMENT

TUSHAR RAO GEDELA, J. (ORAL)

[The proceeding has been conducted through Hybrid mode]

1. This petition under Section 482 of the Code of Criminal Procedure, 1973 (for short "Cr.P.C.") has been filed by the petitioner challenging the directions dated 10.03.2022 passed by the learned ASJ-09, Tis Hazari Courts, Delhi in Bail Application No.3586/2021 '*State Vs. Pawan Wig*' in respect of FIR No.0584/2021 registered for the offences under Sections 498A/406 r/w Section 34 IPC, 1860.
2. Learned counsel for the petitioner submits that issuance of such orders have been deprecated by the Supreme Court. Learned counsel for



the petitioner submits that the Supreme Court in ***Union of India Vs. Padan Narain Aggarwal*** in CrI. Appl. 1575/2008, by the order dated 03.10.2008, has held that directions of granting a particular period as prior notice before arrest, is a procedure unknown to law.

3. Learned counsel submits that keeping in view the aforesaid law, it is apparent that the impugned order is contrary to law and ought to be set aside.

4. *Per contra*, Mr. Bawa, learned APP appearing for the State submits that in the present case, the charge sheet has already been filed after investigation under Sections 498A/406 r/w Section 34 IPC, 1860 as also Sections 354 and 509 IPC, 1860 which were added subsequently.

5. Learned counsel submits that the aforesaid issue on law has been subsequently clarified by the Supreme Court in the case of ***Nathu Singh Vs. State of Uttar Pradesh And Others*** reported as (2021) 6 SCC 64. Learned APP relies upon para 22 and 23 to substantiate the aforesaid arguments.

6. It would be apposite to extract the paragraphs 22 and 23 which are reproduced hereunder:-

“22. Without going into the question of whether Section 438, Cr.P.C. itself allows for such a power, as it is not necessary to undertake such an exercise in the present case, it is clear that when it comes to the High Court, such a power does exist. Section 482, Cr.P.C explicitly recognizes the High Court’s inherent power to pass orders to secure the ends of justice. This provision reflects the reality that no law or rule can possibly account for the complexities of life, and the infinite range of circumstances that may arise in the



future.

23. We cannot be oblivious to the circumstances that Courts are faced with day in and day out, while dealing with anticipatory bail applications. Even when the Court is not inclined to grant anticipatory bail to an accused, there may be circumstances where the High Court is of the opinion that it is necessary to protect the person apprehending arrest for some time, due to exceptional circumstances, until they surrender before the Trial Court. For example, the applicant may plead protection for some time as he/she is the primary caregiver or breadwinner of his/her family members, and needs to make arrangements for them. In such extraordinary circumstances, when a strict case for grant of anticipatory bail is not made out, and rather the investigating authority has made out a case for custodial investigation, it cannot be stated that the High Court has no power to ensure justice. It needs no mentioning, but this Court may also exercise its powers under Article 142 of the Constitution to pass such an order.”

7. This Court at the preliminary stage itself considered the submissions of learned counsel for the petitioner as also learned APP.

8. The grievance of the petitioner appears to be stemming out of the fact that despite number of opportunities having been granted, the private respondents have not handed over the articles of dowry alleged to have been entrusted to them under Section 406 IPC.

9. Be that as it may, even otherwise, once the chargesheet has been under the aforesaid sections, at this stage, the requirement of the private respondent to undergo custodial interrogation would be fruitless and not



even required.

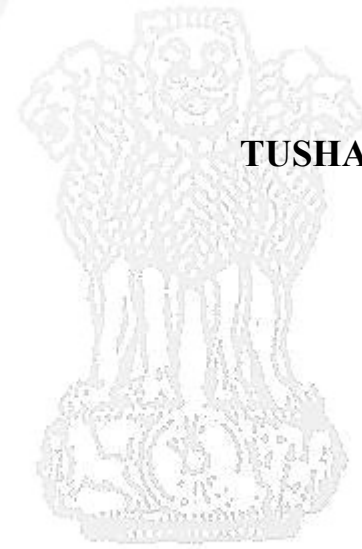
10. Keeping in view the judgment of *Nathu Singh (Supra)*, this Court is of the considered opinion that the impugned order insofar as it grants seven days prior notice prior arrest is concerned, the same is substantiated and supported by the judgment of *Nathu Singh (Supra)*.

11. In that view of the matter, there is no merit in the present petition and as such it is dismissed with no order as to costs.

12. Pending applications also stand disposed of.

TUSHAR RAO GEDELA, J .

JULY 21, 2023/ms



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