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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-8-2024 (O&M)

Date of Decision: 14.02.2024

DALJEET KAUR AND ANR

.. Petitioners

Vs.

STATE OF HARYANA AND ANR

..Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Bhim Singh, Advocate for the petitioners.

Ms. Priyanka Sadar, AAG, Haryana.

Mr. Ajay Chauhan, Advocate
for the respondent No.2.

...

SUMEET GOEL, J. (Oral)

1. This petition has been filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in FIR No.522, dated 14.12.2023 registered under Sections 498-A, 323 , 406, 506 and 34 of the Indian Penal Code, 1860, at Police Station Tehsil Camp, Panipat, District Panipat.
2. On 08.01.2024, the following order was passed:-

“On 03.01.2024, the following order was passed:

The petitioners have filed the present petition under Section 438 of the Code of Criminal Procedure, 1973 for granting anticipatory bail to them in case FIR No.522, dated 14.12.2023 registered under Sections 498 - A, 323 , 406, 506 and 34 of the Indian Penal Code, 1860, at Police Station Tehsil Camp, Panipat, District Panipat.

Learned counsel for the petitioners contend that both the petitioners are mother-in-law and sister-in-law of the complainant and both the petitioners have been falsely implicated in the above mentioned FIR.

Notice of motion.

On the asking of the Court, Mr. Saurabh Mago, DAG Haryana, accepts notice on behalf of respondent No.1 and seeks some time to get his instructions.

List on 08.01.2024.

Till the next date of hearing, the arrest of the petitioners shall remain stayed.”

In pursuance of the above-said order, the State of Haryana has filed a status report by way of affidavit of Sh. Suresh Kumar, HPS, Deputy Superintendent of Police, Traffic, Panipat.

Mr. Ajay Chauhan, Advocate for Mr. Diwan S. Adlakha, Advocate, has entered appearance on behalf of complainant-respondent No.2 and has filed his vakalatnama. The same be taken on record.

*Learned counsel for the petitioner, inter alia, contends that the dispute in question arises out of a matrimonial discord between the complainant-wife, namely, Manpreet Kaur and her husband Mandeep Singh; petitioner No.1 is a lady aged about 62 years (mother-in-law of the complainant) whereas petitioner No.2 is a lady aged about 40 years (sister-in-law of the complainant), who are willing to join investigation and cooperate therewith. To buttress his argument, learned counsel for the petitioners has relied upon a judgment of the Hon'ble Supreme Court in **Mohd. Ashfaq Alam vs. The State of Jharkhand & another, 2023(3) R.C.R. (Criminal) 754** as also on **Arnesh Kumar vs. State of Bihar & another, 2014 AIR (SCW) 3930**.*

The petitioners are directed to appear before the Investigating Officer on 12.01.2024 at 11:00 A.M. in concerned Police Station and join investigation. In the event of arrest, the petitioners shall be released on interim bail subject to their furnishing personal/surety bond(s) to the satisfaction of the Arresting Officer/Investigating Officer. As and when further called by Investigating Officer, the petitioners shall join the investigation. They shall abide by the condition(s) enumerated under Section 438(2) of the Cr.P.C. Petitioners are also directed to deposit their passports with the Illaqa Magistrate on or before 12.01.2024.

In case, the petitioners plead that they do not hold any passport, they shall file an affidavit to this effect before the Investigating Officer.

Put up on 14.02.2024.”

3. Learned State counsel, on instructions from HC Kavita, has stated that pursuant to the order dated 08.01.2024, the petitioners have joined investigation and are no longer required for custodial interrogation.

However, learned State counsel as also the learned counsel for the complainant have submitted that only partial recovery of dowry articles has been effected and remaining dowry articles are yet to be recovered.

4. Learned counsel for the petitioner has submitted that no dowry articles/Istri-dhan are in possession of the petitioner and, in fact, the entire dowry articles/Istri-dhan is with the aggrieved-wife.

5. I have heard the learned counsel for the rival parties and have perused the paper book.

6. It will be apposite to refer to a judgment dated 12.02.2024 passed by this Court in CRM-M-60647-2023 titled as “Varun Sharma Vs. State of Punjab and another”, relevant whereof reads as under:

“11. As a sequel to the above said discussion, the following principles of law emerge:-

(I) Non-recovery of dowry articles/Istri-dhan cannot ordinarily be a ground, by itself, for declining a plea for grant of anticipatory bail to the husband or his relatives.

(II) The conduct of an accused, is indeed, a relevant factor for consideration of a plea for grant of anticipatory bail on behalf of such accused. Such conduct would also include the cooperation, in accordance with law, extended by such accused for recovery of dowry articles/Istri-dhan. Whether or not such cooperation was extended by the accused would be ascertainable from the facts and circumstances of a given case.

(III) In exceptional cases, if the peculiar and/or accentuating facts/circumstances of the case so warrant, a Court would be well within its discretion to pass a direction to the petitioner- accused to deposit in Court or remit to the complainant-wife an appropriate amount towards the Istri-dhan/dowry articles. Needless to state herein that it is neither possible nor desirable to enumerate a set of guidelines in this regard & a Court would have to exercise its judicial discretion in this regard in the facts and circumstances of a given case.”

7. Non-recovery of dowry articles/Istridhan in entirety thereof cannot, by itself, be a cause for rejection of the present plea for anticipatory bail by the petitioner especially when the State does not require custodial interrogation of petitioner on any other count except for effecting recovery of remaining dowry articles/Istridhan. The aspect, as to what all are the dowry articles/Istridhan in question in the present case & whether the entire dowry articles have been recovered or not, shall be essentially gone into during the course of trial. No accentuating circumstances are decipherable, from the factual matrix of the present case, so as to direct the petitioner to deposit any amount towards the alleged non-recovery of complete dowry articles. No such misconduct by the petitioner has been pointed out which may dissuade this Court from confirming the interim anticipatory bail to the petitioner.

8. In view of above, the petition is allowed and interim order dated 08.01.2024 passed by this Court is made absolute, subject to the conditions as enumerated under Section 438(2) Cr.P.C.

9. This order should not be treated as “blanket” order. It will not be interpreted as granting petitioners indefinite protection from arrest. It shall be confined to the FIR mentioned *ibid* and will not operate in respect of any other incident that involves commission of an offence.

10. Liberty is reserved in favour of State/complainant to move for cancellation/recall of this order in case the petitioners violate any condition stipulated under Section 438(2) Cr.P.C., 1973 or upon showing any other sufficient cause.

11. Needless to say that anything observed herein above shall not be construed to be an opinion on the merits of the case.

12. Pending application(s), if any, shall also stand disposed off.

14.02.2024

(SUMEET GOEL)
JUDGE

Jasmine Kaur

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No