

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

214

CRM-M-214-2024
Date of decision: 16.04.2024

SAGAR SAHU AND OTHERS

...PETITIONERS

V/s

STATE OF HARYANA

...RESPONDENT

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Tarun Singhal, Advocate
for the petitioners.

Ms. Priyanka Sadar, AAG, Haryana.

SUMEET GOEL, J.

1. This petition has been filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioners in FIR No.165 dated 07.12.2023, registered for offences punishable under Sections 323, 354-A, 377, 498-A, 506 and 34 of the Indian Penal Code, 1860, at Women Police Station District, Faridabad.

2. On 08.01.2024, the following order was passed:-

“Apprehending their arrest in FIR No. 165 dated 07.12.2023 registered for offences punishable under Sections 323, 354-A, 377, 498-A, 506 and 34 of IPC, 1860 at Women Police Station District Faridabad; the petitioners have preferred this petition under Section 438 Cr.P.C. seeking pre-arrest bail.

Inter alia contends that the FIR in question is outcome of matrimonial discord; allegations of serious offence have been added to lend severity to the issue involved; refers to paras 9, 10 and 22 of the petition to submit that there is no deliberate avoiding of joining investigation by the petitioners; the petitioners are willing to join investigation as also cooperate

therein as also make an earnest endeavour for recovery of the dowry articles.

Notice of motion.

On asking of the Court, Ms. Mahima Yashpal, DAG, Haryana, appears and accepts notice on behalf of the respondent- State.

Adjourned to 08.02.2024.

The petitioners are directed to appear before the Investigating Officer on 22.01.2024 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.”

On 06.03.2024, the following order was passed:-

“Learned State counsel, on instructions from HC Renu, submits that the petitioners have joined the investigation but are not cooperating therein. It is further submitted by learned State counsel that the petitioners are avoiding to have any recovery of the Istridhan/dowry articles made.

Faced with the situation, learned counsel appearing for the petitioners submits that petitioners shall re-join the investigation and cooperate therein in accordance with law.

The petitioners are directed to appear before the concerned Investigating Officer on 18.03.2024 at 11:00 A.M. in concerned Police Station. It is made clear that in case the petitioners do not appear before the concerned Investigating Officer on the said date and cooperate therein in accordance with law, the interim order earlier granted to the petitioners will be liable to be vacated on this score alone.

Adjourned to 16.04.2024.”

3. Learned State counsel, on instructions from HC Renu, 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 petitioners have submitted that no dowry articles/*Istri-dhan* are in possession of the petitioners 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 principle 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/*Istri-dhan* in entirety thereof cannot, by itself, be a cause for rejection of the present plea for anticipatory bail by the petitioners especially when the State does not require custodial interrogation of petitioners on any other count except for effecting recovery of remaining dowry articles/*Istri-dhan*. The aspect, as to what all are the dowry articles/*Istri-dhan* in question in the present case & whether the entire dowry articles have been 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 petitioners to deposit any amount towards the alleged non-recovery of complete dowry articles. No such misconduct by the petitioners have been pointed out which may dissuade this Court from confirming the interim anticipatory bail to the petitioners.

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 violates 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.

(SUMEET GOEL)
JUDGE

April 16, 2024
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No