

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

302-2

CRM-M-803-2024

Date of decision: 06.03.2024

Ajit Kaur

...Petitioner

V/s

State of Punjab and another

...Respondents

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Anupam Bhardwaj, Advocate for the petitioner.
Mr. Anup Singh AAG Punjab.
Mr. U.K Agnihotri, Advocate for respondent No.2-complainant.

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.107 dated 17.11.2023 (Annexure P-1), registered for offences under Sections 498-A, 313, 406, 506 of the Indian Penal Code, 1860, at Police Station Fatehgarh Churian, Batala, District Gurdaspur.

2. On 09.01.2024, the following order was passed:-

“Apprehending her arrest in FIR No.107 dated 17.11.2023 registered for offences punishable under Sections 498-A, 313, 406 & 506 IPC at Police Station Fatehgarh Churian, Batala District Gurdaspur; the petitioner has preferred this petition under Section 438 Cr.P.C. seeking pre- arrest bail.

At the very outset, learned counsel for the petitioner states that the complainant could not be arrayed as party on account of inadvertence. On his oral request, Manpreet Kaur wife of Ravisher Singh and daughter of Sukhjeet Singh, is directed to be impleaded as party- respondent No.2. Registry is directed to carry out requisite correction in the memo of parties.

Inter alia relies upon order dated 14.12.2023 passed in Crl.Misc.No.M-62531 of 2023.

Notice of motion.

On asking of the Court, Mr. Adhiraj Singh Thind, AAG, Punjab, appears and accepts notice on behalf of the respondent-State.

Adjourned to 06.03.2024.

To be heard along with CRM-M-62531-2023.

The concerned SHO, through the learned State counsel, is directed to inform the complainant about the next date of hearing fixed in the present case.

The petitioner is directed to appear before the Investigating Officer on 17.01.2023 at 11:00 A.M. in concerned Police Station and join investigation. In the event of arrest, the petitioner shall be released on interim bail subject to her furnishing personal/surety bond(s) to the satisfaction of the Arresting Officer/Investigating Officer. As and when further called by Investigating Officer, the petitioner shall join the investigation. She shall abide by the condition(s) enumerated under Section 438(2) of the Cr.P.C.”

3. Learned State counsel, on instructions from ASI Jagtar Singh, has stated that pursuant to the order dated 09.01.2024, the petitioner has joined investigation and is no longer required for custodial interrogation. However, learned State counsel as also the learned counsel for the complainant have submitted that no recovery of dowry articles has been effected.

4. Learned counsel for the petitioner has submitted that no dowry articles/Istridhan are in possession of the petitioner and, in fact, the entire dowry articles/Istridhan 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 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 dowry articles/Istridhan. The aspect, as to what all are the dowry articles/Istridhan in question in the present case & whether the 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 09.01.2024 passed by this Court are 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 petitioner 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 petitioner 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

March 06, 2024
Ajay

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No