

Date of decision: 23.09.2024

....Petitioner

V/s

....Respondent

Mr. Ashish Verma, Advocate for the complainant.

* * * * *

1. Present petition has been filed under Section 438 of Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') for grant of anticipatory bail to the petitioner in case FIR No.69 dated 22.08.2022, under Sections 406 and 498-A IPC registered at Police Station Mulepur, District Fatehgarh Sahib.

2. On 23.02.2023 the following order was passed:-

“Notice of motion.

Mr. Arun Gupta, AAG, Punjab, accepts notice on behalf of the respondent-State. Ms. Savita Rana, Advocate, has put in appearance on behalf of the complainant.

At the outset, without advertent to the merits of the case, counsel for the parties are ad idem that in case the matter is referred to mediation, there is a possibility of an amicable resolution between the parties. However, learned counsel for the complainant has vehemently submitted that the protection, if being granted to the petitioner, should only be for the purpose of exploring the possibility of an amicable settlement. In case the parties fail to amicably resolve the issue, the present petition be decided on its merits.

In light of the above, the parties are directed to appear before the Mediation & Conciliation Centre of this Court on 20.03.2023 to explore the possibility of an amicable settlement.



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Only for the above-said purpose, the petitioner is directed to join investigation on 01.03.2023 at 10:00 A.M. before the Investigating Officer and cooperate with the Investigating Agency, even thereafter.

In the event of arrest, the petitioner be released on interim bail subject to furnishing personal/surety bonds to the satisfaction of the Arresting/Investigating Officer and the petitioner shall abide by the conditions as envisaged under Section 438 (2) Cr.P.C.

The petitioner shall effect the recovery of all the dowry articles and in case certain dowry articles are impossible to be recovered, then their valuation be assessed and the Mediator shall look into all the aspects before giving its report.

To await report of the Mediator, adjourned to 08.05.2023.”

Pursuant to the aforesaid order, the mediation proceedings initiated between the parties, have not fructified. The petitioner has further filed an affidavit dated 08.07.2024 by way of CRM-27540-2024; relevant whereof reads as under:

“2. That the complainant has been querulous in nature and after marriage would pick up quarrels on trivial issues with the petitioner and his family members and for avoiding this fight for trivial issues and being compelled by complainant, the petitioner and the complainant shifted to kharar. While leaving Fatehgarh Sahib and for settling at kharar, the complainant had taken all the dowry articles by loading in the Tempo and CD to that effect is already on record as Annexure P-6 which depicts the taking of all the dowry articles by Complainant. In para No. 18 of affidavit of DSP Raj Kumar dated 19.10.2023 it is also mentioned that all the gold articles have already been taken by the complainant when she left the home at the time of pregnancy i.e delivery of child. The petitioner is not in possession of any gold article except a ring which was given to the brother of the petitioner and the same has been given to the investigation officer on 24.04.2024.

3. That the petitioner and Complainant after having shifted to Kharar took house on rent and worked at chemist shop at Industrial Area Phase-V, Shahimajra Mohali Since business was to be established and money was needed, the petitioner, with the concurrence of the complainant, sold his Kada, Chain and Ring, the fact stands mentioned in para No.7 at page 7 of the present petition. There is no denial to the same by the complainant



and the investigation officer has not been asked by the complainant for making investigation into the same. It is also mentioned that entire earning of the investment i.e. shop went to the complainant. It is clarified that all online payments of the shop were being received through google pay through mobile phone of the complainant and the same had been being credited in the account of the complainant only and this aspect has been investigated by the Investigation Officer and statements of the account of the complainant have been collected which proves the same to be true and in such scenario the allegation of demand of dowry stands falsified.”

3. Learned State counsel, on instructions from ASI Dilbagh Singh, has stated that pursuant to the order dated 23.02.2023, the petitioner has joined the investigation. It has been further submitted that the complete recovery of dowry articles, as claimed for by the complainant, has not been made. Learned State counsel has raised submission in tandem with the paragraph Nos.16 and 19 respectively of the status report dated 01.05.2024 filed on behalf of the State; relevant whereof reads as under:

“16. That the Investigating Officer sent a letter to Manager Muthoot Finance Limited Sirhind, District Fatehgarh Sahib (Punjab) for obtaining details of gold loan taken by accused/petitioner, his mother Rajwant Kaur and his brother Satwinder Singh. In reply to that letter the Manager of Muthoot Finance company written that Manavjit Singh has not taken any loan from Muthoot Finance Ltd. however, Manager produced copy of statement with regard to gold loan taken by respondent no.2/Rajwant Kaur mother of accused Manavjit Singh as well as by gold loan taken by Satwinder Singh son of Paramjit Singh. From perusal of loan statement, it reveals that the weight of gold articles which were pledged by the Muthoot finance, are matched with the bill/details presented by the complainant. Copies of statements are attached herewith as Annexure R-1 Colly for kind perusal of this Hon’ble court.

xxx xxx xxx xxx

“19. xxxxxxxx. All the dowry articles including gold ornaments are in the possession of Manavjit Singh and his family members and the mother of Manavjit Singh and his brother have obtained gold loan on some of gold ornaments.”



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

5. 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.”

6. The petitioner was granted the concession of interim anticipatory bail vide order dated 23.02.2023. The petitioner has repeatedly joined the investigation and the only ground for which his custodial interrogation is sought for is non-recovery of the entire dowry articles. Further, the stand of the State that the weight of gold articles which were pledged before the Muthoot Finance is same as the weight of the gold articles as per bills/details presented by the complainant, is a question of fact

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that must be determined during trial, upon consideration of evidence brought by the rival parties. At this stage it is not appropriate for this Court to deduce that merely because, the weights of two set of gold ornaments are identical, the gold alleged to have been given as dowry is the same as that pledged with Muthoot Finance. The non-recovery of dowry articles/Istridhan in their entirety thereof or as per claim put forth by complainant/victim 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 complete 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.

7. In view of the above, the petition is allowed and the interim order dated 23.02.2023 passed by this Court is made absolute, subject to the conditions as enumerated under Section 438(2) Cr.P.C.

8. This order should not be treated as “blanket” order. It will not be read 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.



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9. 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.
10. Needless to say that anything observed herein above shall not be construed to be an opinion on the merits of the case.

(SUMEET GOEL)
JUDGE

September 23, 2024
Ajay

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