

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-M-5970 of 2023
DATE OF DECISION :- 26.02.2024**

Amarjeet Kalra and another

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. Dheeraj Mahajan, Advocate for the petitioners.

Mr. Adhiraj Singh, AAG, Punjab.

Mr. Naveen Sharma, Advocate for 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 petitioners in GD No. 35 dated 23.12.2022 registered at Police Station Dugri, District Police Commissionerate Ludhiana in FIR No. 143 dated 07.10.2022, registered for offences under Sections 323,341,506,149 IPC, at Police Station City Dugri, District Police Commissionerate Ludhiana.

2. On 06.02.2023, the following order was passed:-

“The petitioners have filed the present petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail in case GD No.35 dated 23.12.2022 in FIR No.143 dated 07.10.2022 registered under Sections 323, 341, 506 and 149 of the Indian Penal Code, 1860 at Police Station Dugri, District Police Commissionerate Ludhiana.

Learned counsel for the petitioners contends that the petitioners have been falsely implicated in the present case. There is a matrimonial dispute between the son of the petitioners and the complainant. Even as per the FIR, only general and vague allegations have been levelled

against the petitioners. In fact, the complainant and her family members forcibly entered in to the house of the petitioners and inflicted multiple injuries to the petitioners and their son regarding the same FIR No.143 dated 07.10.2022 has been registered against the complainant and her family. The present FIR is nothing but just a counter-blast to the above-said FIR. Nothing is to be recovered from the petitioners and their custodial interrogation is not required in the case. The petitioners are already ready and willing to join the investigation.

Notice of motion.

On the asking of the Court, Mr. Mr. Jaspal Singh Guru, Asstt. A.G., Punjab, who is present in the Court, accepts notice on behalf of the respondent-State and seeks time to file reply.

At this stage, Mr. Naveen Sharma, Advocate has put in appearance on behalf of the complainant and filed his power of attorney in the Court today which is taken on record.

Learned counsel for the complainant has vehemently opposed the present petition and seeks time to file reply.

Adjourned to 17.05.2023.

In the meanwhile, the petitioners are directed to join the investigation and appear before the Investigating Officer within 07 days from today and on their doing so, the petitioners shall be released on interim anticipatory bail subject to their furnishing personal/surety bonds to the satisfaction of the Arresting/Investigating Officer. The petitioners shall also abide by the conditions as specified under Section 438(2) of the Cr.P.C.”

3. Learned State counsel, on instructions from ASI Surjeet Singh, has stated that pursuant to the order dated 06.02.2023, the petitioners have joined investigation and are no longer required for custodial interrogation. However, learned State counsel as also the learned counsel for respondent No. 2 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 has submitted that no dowry articles/Istridhan are in possession of the petitioners 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 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/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 petitioners 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 petitioners.

8. In view of above, the petition is allowed and interim order dated 06.02.2023 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 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 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.

(SUMEET GOEL)
JUDGE

26.02.2024
P.Singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No