

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-10919 of 2022 (O&M)
DATE OF DECISION :- 21.02.2024

Rita Gupta

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. Rakesh Nehra, Senior Advocate
with Mr. Sauhard Singh, Advocate for the petitioner.

Mr. Adhiraj Singh, AAG, Punjab.

Mr. Namit Gautam, Advocate for the 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.15 dated 27.01.2022, registered for offences under Sections 498-A,406 of the IPC at Police Station City Khanna, Punjab.

2. On 25.05.2023, the following order was passed:-

“On 27.03.2023, the following order was passed:-

“Learned counsel for the parties are ad idem that petitioner shall pay a sum of Rs. 1.25 crore towards permanent alimony to complainant as full and final settlement between the parties as well as Rs. 20,000/- per month to daughter till she gets married. Both the parties shall withdraw their all the cases which they have filed against each other. The parties shall file petition under Section 13-B of Hindu Marriage Act seeking divorce. Petitioner shall pay a sum of Rs. 50 lakh at the time of

recording of first motion. The remaining 75 lakh shall be paid at the time of recording of second motion. After recording of first motion, the petitioner would be free to move petition under Section 482 Cr.P.C. seeking quashing of FIR on the basis of compromise.

Arguments have been heard in part and for remaining arguments, adjourned to 25.05.2023.

Interim order to continue.

Photocopy of this order be placed on the file of connected case.

To be shown in the urgent list.”

Learned counsel for the complainant submits that complainant is not ready to settle her disputes in terms of order dated 27.03.2023.

The arrest of the petitioners was stayed, however, they were never directed to join investigation.

Considering the facts and circumstances of the present case(s), at the first instance, the petitioners are directed to appear before Investigating Officer on 04.06.2023 at 10:00 AM and thereafter as directed by Investigating Officer. In the event of arrest, the petitioners shall be admitted to interim bail on furnishing of bail/surety bonds to the satisfaction of Investigating/Arresting Officer. The petitioners shall cooperate the Investigating Officer.

If the Arresting Officer does not permit the petitioners to join the investigation, the petitioners would appear before the learned Illaqa Magistrate who would then summon the Arresting Officer and direct him to join the petitioners in investigation, in terms of the order of this Court.

Adjourned to 27.07.2023.

Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case

and Trial Court shall proceed without being prejudiced by observations of this Court.

A photocopy of this order be placed on the file of connected case.”

3. Learned State counsel, on instructions from ASI Major Singh, has stated that pursuant to the order dated 25.05.2023, 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 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.

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 25.05.2023 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 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

21.02.2024
P.Singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No