

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

205

CRM-M-12050-2024

Date of decision: 01.05.2024

Parampal Singh

....Petitioner

V/s

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Amit Arora, Advocate for the petitioner.
Mr. Anup Singh AAG Punjab.
Mr. Neeraj Yadav, Advocate for the complainant.

SUMEET GOEL, J. (Oral)

1. Present petition has been filed by the petitioner-husband seeking anticipatory pre-arrest bail in case bearing FIR No.69 dated 27.07.2023, registered for the offences punishable under Sections 498-A & 406 of IPC at Police Station Harike District Tarn Taran.
2. The prime allegations in the FIR relate to demand of dowry, harassment and cruelty being meted out to the complainant-wife by accused-petitioner/husband, mother-in-law, father-in-law, brother-in-law, sister-in-law and Jeth respectively. It was alleged by the complainant that her marriage was solemnized with the petitioner-husband (herein) on 07.04.2020 as per Sikh rites and sufficient dowry was given at the time of marriage including furniture gold ornaments/articles etc as per their financial status and capacity. Initially, the behavior of the accused persons towards the complainant was cordial but later on the accused persons including the petitioner (herein) started maltreating, harassing and taunting the complainant for bringing insufficient dowry. A demand of car was also raised by the accused person. As the family of the complainant failed to

fulfill the said demand, complainant was taunted; given beatings and harassed. Being fed up with the unwanted conduct of the accused persons and ill treatment being meted out to the complainant, she reported the matter to her parents. However, after much persuasion, the accused person did not mend their behavior and the complainant was subjected to maltreatment by the accused persons for bringing less dowry. On these set of allegations, the instant FIR was lodged and investigation ensued.

3. Learned counsel for the petitioner has argued that the FIR in question is actually a result of matrimonial discord between the petitioner-husband and complainant-wife. Learned counsel has further argued that the entire allegations raised against the petitioner in the FIR in question are false and motivated. Learned counsel has further submitted that the petitioner had filed a petition under Section 9 of Hindu Marriage Act of 1955 on 26.05.2023 and the FIR in question is a counter-blast to the said proceedings initiated by the petitioner. It has been further argued that the petitioner was extended the concession of interim anticipatory bail vide order dated 07.03.2024 whereinafter he has joined investigation. Thus, anticipatory bail is prayed for.

4. Learned State counsel as also learned counsel appearing for the complainant have opposed the grant of anticipatory bail to the petitioner, by arguing that the allegations against the petitioner are serious in nature and the petitioner is intentionally avoiding to return all the dowry articles/Istridhan including the gold articles in his possession. Thus, it has been prayed that the present petition ought to be rejected.

5. I have heard learned counsel for the parties and have perused the paper-book.

6. It would be apposite to refer herein to a judgment of this Court passed in **CRM-M-8709-2022** titled as ***Dilpreet Singh vs. State of Punjab and another, Neutral Citation No.PHHC007557***, decided on 20.01.2024; relevant whereof reads as under:

10. As an epilogue to above discussion, the following principles of law can be culled out:

(1) A person, having apprehension of being arrested for offence(s) punishable by a maximum jail term of seven years, can make a plea for grant of pre-arrest/anticipatory bail on ground of apprehension of violation by police of Sections 41/41-A of Cr.P.C., 1973 & cannons of law enunciated by Hon'ble Supreme Court in the cases of **MD. Asfak Alam vs. The State of Jharkhand & anr. 2023(3) RCR (Criminal) 754**, **Arnesh Kumar vs. State of Bihar and another (2014) 8 SCR 128** & **Mohammed Zubair vs. State of NCT of Delhi & Ors. 2022 LiveLaw (SC) 629**. Such a plea by a person has to be dealt with by a Court in consonance with the ratio decidendi of these Supreme Court judgments & statutory framework of Sections 41/41-A of Cr.P.C, 1973

(II) The conduct of an accused is an essential factor required to be considered by a Court while adjudicating upon a plea made by such an accused for grant of pre-arrest/anticipatory bail. An accused cannot seek shelter of provisions of Sections 41/41-A of Cr.P.C. de hors his conduct. Such conduct has to be ascertained at all stages including the conduct of such accused before filing the plea for anticipatory bail as also during the period the accused is granted interim protection (if it has been so granted) by a Court. The conduct of an accused after decision of such a plea in his favour will, of course, be subject matter of a petition for cancellation of such anticipatory bail (if situation so arises).

(III) For considering conduct of an accused, the Court would be required to look into the following aspects:-

(a) whether the accused is making himself available for interrogation by the investigating officer as and when required by such investigating officer.

(b) whether the accused is, directly or indirectly, making any inducement/threat/promise to any person(s) acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Courts/Investigating Officer.

(c) whether the accused has made any attempt to leave India without the requisite permission from the concerned competent Court.

(d) *whether such accused has been involved in commission of any other offence during the pendency of the FIR in question.*

The above said factors are only illustrative in nature since no exhaustive list of factors can be laid-down as every case has its own peculiar facts/circumstances.”

Further, in judgment tiled as ***Varun Sharma vs. State of Punjab and another, Neutral Citation No.PHHC:019691*** passed in CRM-M-60647-2023 decided on 12.02.2024, this Court has held 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. Vide order dated 07.03.2024, the petitioner was granted interim anticipatory bail in view of the contention raised by the counsel for the petitioner that the petitioner was willing to return all the dowry articles/Istridhan including gold articles in his possession and was also willing to join investigation and cooperate therein. Thereafter, on 21.03.2024, it was submitted by the learned State counsel (on instructions

was not cooperating therein. Accordingly, the petitioner was granted another opportunity to join the investigation and cooperate therein in accordance with law. The matter was, thereafter, referred to Mediation and Conciliation Centre of this Court but the same could not fructify. Indubitably, the anticipatory bail petition filed by an accused, in an offence pertaining to matrimonial dispute, cannot be rejected only on the ground of non-recovery of dowry articles/Istridhan. However, at the same time, the conduct of such an accused is pertinent factor for consideration of such a plea for grant of anticipatory bail. Needless to say that such conduct would also include the cooperation (in accordance with law) extended by such an accused for recovery of dowry articles/Istridhan.

8. The interim anticipatory bail was extended to the petitioner vide order dated 07.03.2024 on the basis of a contention made on behalf of the petitioner that he was willing to return all the dowry articles/Istridhan including gold articles. The petitioner has chosen to take benefit of the interim order passed on 07.03.2024 but has not extended any cooperation to return the dowry articles/Istridhan especially the gold articles. It is the specific stand of the State that apart from some insignificant household articles/furniture items, no effective recovery has been made. The conduct of the petitioner reflects that the petitioner is misusing the concession of interim anticipatory bail earlier extended to him without his exhibiting the will to return the dowry articles/Istridhan including gold articles as was stated on his behalf on 07.03.2024.

9. Further; it is noticeable that the FIR in question was registered on 27.07.2023 but the same has been registered on a complaint made by the complainant-wife on 24.05.2023. The petition filed by the petitioner-husband under Section 9 of the Hindu Marriage Act, 1955 has been filed on

26.05.2023. Therefore, the lodging of the FIR cannot be said to be a counterblast to the petition filed by the petitioner-husband under Section 9 of the Hindu Marriage Act, 1955.

10. Keeping in view the entirety of the facts and circumstances of the case, the petitioner does not deserve the concession of anticipatory bail/pre-arrest bail. Accordingly, the instant petition is dismissed.

11. Pending application(s), if any, shall also stand disposed off.

(SUMEET GOEL)
JUDGE

May 01, 2024
Ajay

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