

CRM-M-15869-2023
IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

208 CRM-M-15869-2023
Date of decision:04.03.2024

Navneet Kaur
V/s
State of Punjab
....Petitioner
....Respondent

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. P.S. Sekhon, Advocate for the petitioner.
Mr. Anup Singh AAG Punjab.
Mr. Munish Garg, 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.88 dated 01.03.2023, registered for offences under Sections 306/34 of the Indian Penal Code, 1860, at Police Station City Barnala, District Barnala.

2. On 29.01.2024, the following order was passed:-

“Apprehending her arrest in FIR No. 88 dated 01.03.2023 registered for offences punishable under Sections 306, 34 IPC at Police Station City Barnala, District Barnala; the petitioner has preferred this petition under Section 438 Cr.P.C. seeking pre-arrest bail.

Inter alia contends that the petitioner's son was engaged with the deceased on 08.03.2022 and thereafter within one month the son of the petitioner went to Canada for studies and subsequently blocked the deceased on his telephone/mobile phone; the husband of the petitioner has already filed a civil suit for prohibitory injunction restraining the defendants (therein) from recovering any amount from the plaintiff (therein) and it is upon receipt of the summons in the said civil suit that the deceased went into depression and committed suicide on 01.03.2023 & the petitioner is willing to join investigation and cooperate therein.

Notice of motion.

On asking of the Court, Mr. Hemant Aggarwal, AAG, Punjab. appears and accepts notice on behalf of the respondent-State.

Mr. Munish Garg, Advocate appears and accepts notice for the complainant.

Adjourned to 28.02.2024.

The petitioner is directed to appear before the Investigating Officer on 01.02.2024 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 counsel for the petitioner has argued that the petitioner has joined investigation in terms of order dated 29.01.2024 and has cooperated therein in accordance with law. Further the learned counsel has handed-over a photocopy of the passport of co-accused namely Mandeep Singh to the learned State counsel in Court today.

4. Learned State counsel, on instructions from ASI Pardeep Kumar, has stated that pursuant to the order dated 29.01.2024, the petitioner has joined investigation and is no longer required for custodial interrogation.

5. Learned counsel for the complainant has vociferously oppose the grant of anticipatory bail by arguing that the allegations against the petitioner are serious in nature & hence the petitioner ought not to be granted the anticipatory bail. He has further submitted that only partial recovery of dowry articles has been effected and remaining dowry articles are yet to be recovered.

6. 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.

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

8. 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.”

9. 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,

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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.

10. In view of above, the petition is allowed and interim order dated 29.01.2024 passed by this Court is made absolute, subject to the conditions as enumerated under Section 438(2) Cr.P.C.

11. 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.

12. 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.

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

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

(SUMEET GOEL)
JUDGE

March 04, 2024
Ajay

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