

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

213

CRM-M-16687-2023
Date of decision: 23.04.2024

PARAMJIT SINGH

...PETITIONER

V/s

STATE OF PUNJAB AND ANOTHER

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Kuldeep S. Saini, Advocate
for the petitioner.

Mr. Anup Singh, AAG, Punjab.

Ms. Urvashi Singh, Legal Aid Counsel
for respondent No.2.

SUMEET GOEL, J.

1. This petition has been filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in FIR No.24 dated 24.02.2023, registered for offences punishable under Sections 406 & 498-A of the Indian Penal Code, 1860, at Police Station Chamkaur Saab, District Ropar.
2. On 17.04.2023, the following order was passed:-

CRM-16410-2023

The present application is for impleading the complainant- as respondent No.2 in the main case.

For the reasons recorded in the application, the same is allowed. Amended memo of parties is taken on record.

Registry is directed to tag the same at the appropriate stage of the case.

CRM-M-16687-2023

The present petition has been preferred seeking grant of anticipatory bail in case FIR No.24 dated 24.02.2023 under Sections 406 and 498-A IPC at Police Station Chamkaur Saab, District Ropar.

Vide order dated 10.04.2023, learned counsel for the petitioner had prayed for time to implead the complainant as a party as the petitioner wants to resolve the matrimonial discord.

Notice of motion.

Mr. Arun Gupta, AAG, Punjab, accepts notice on behalf of the State.

Only for the purpose of exploring the possibility of amicable settlement between the parties, let notice of motion be issued to the newly added respondent No.2 for the date fixed.

In the meantime, the petitioner is directed to join investigation on 28.04.2023 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 be satisfaction of the Arresting/Investigating Officer and the petitioner shall abide by the conditions as envisaged under Section 438(2) Cr.P.C.

Adjourned to 03.07.2023.

The Authorities are directed to get the mediation examination of the petitioner done and file a status report before the next date of hearing. It is clarified that this interim arrangement shall not be considered for deciding the petition finally, in case, the parties are not able to resolve the matter amicably.

The petitioner is directed to bring a Demand Draft of Rs.33000/- in the name of respondent-wife as litigation expenses on the next date of hearing, which shall be handed over to the respondent-wife on her appearance before the Court.”

3. Mediation proceedings initiated between the parties have not fructified.

4. Learned State counsel, on instructions from ASI Ranjit Singh, has stated that pursuant to the order dated 17.04.2023, 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.

5. Learned counsel for the petitioner has submitted that no dowry articles/*Istri-dhan* are in possession of the petitioner and, in fact, the entire dowry articles/*Istri-dhan* is with the aggrieved-wife.

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

7. 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 principle 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.”

8. Non-recovery of dowry articles/*Istri-dhan* 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/*Istri-dhan*. The aspect, as to what all are the dowry articles/*Istri-dhan* in question in the present case & whether the entire dowry articles have been 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.

9. In view of above, the petition is allowed and interim order dated 17.04.2023 passed by this Court is made absolute, subject to the conditions as enumerated under Section 438(2) Cr.P.C.

10. 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.

11. 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.

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

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

(SUMEET GOEL)
JUDGE

April 23, 2024
jatin

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