

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

203

CRM-M-18949-2022

Date of decision: 22.02.2024

Chaitanya Sharma

....Petitioner

V/s

State of Punjab and another

....Respondents

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Ashish Pal Kaushal, Advocate for the petitioner.
Mr. Adhiraj Singh Thind, AAG Punjab.
Ms. Sapna Randhawa, Advocate for
Mr. Himanshu Raj, Advocate for respondent No.2.

SUMEET GOEL, J. (Oral)

Status report by way of affidavit of Amandeep Singh (PPS),
ACP, CAW & C-Cell, Ludhiana has been filed by learned State counsel,
which is taken on record.

1. This petition has been filed under Section 438 Cr.P.C. for grant
of anticipatory bail to the petitioner in FIR No.68 dated 31.03.2022,
registered for offences under Sections 406/498-A/420 of the Indian Penal
Code, 1860, at Police Station Women Cell, Ludhiana, District Ludhiana.

2. On 06.05.2022, the following order was passed:-

*“Learned counsel for the petitioner inter-alia contends that the
petitioner has been falsely implicated in this case on account of a
matrimonial dispute between the petitioner and the complainant; the
petitioner has no other criminal case pending against him; earlier a
similar complaint was filed by the complainant at Chandigarh on which
the police did not deem fit to take any action, thereafter on similar lines
the present FIR has been got lodged at Ludhiana; the petitioner
undertakes to return all the articles of istridhan to the complainant that
are in his possession; the petitioner is ready to amicably resolve the*

matrimonial dispute with the complainant and that the petitioner shall also join and cooperate with the investigation.

Notice of motion.

Ms Ruchika Sabherwal, Assistant Advocate General, Punjab, accepts notice on behalf of the respondent-State and Ms.Sapna Randhawa, Advocate puts in appearance on behalf of the complainant.

For arguments, adjourned to 08.09.2022.

In the meanwhile subject to the petitioner's joining investigation as and when called by the investigating agency as also abiding by the other conditions provided under Section 438(2) Cr.P.C, in the event of his arrest in FIR No.68, dated 31.03.2022, registered under Sections 406, 498-A, 420 IPC at Police Station Women Cell, Ludhiana, District Police Commissionerate Ludhiana, he shall be released on ad interim anticipatory bail to the satisfaction of the Arresting Officer”

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

4. Learned State counsel, on instructions from ASI Harjinder Singh, has stated that pursuant to the order dated 06.05.2022, the petitioner has joined investigation and is 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.

5. 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.

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 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.”

8. 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.

9. In view of above, the petition is allowed and interim order dated 06.05.2022 passed by this Court are 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

February 22, 2024
Ajay

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