

2024:PHHC:003159

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-20217-2023

Date of decision: 11.01.2024

Mayank Soni

....Petitioner

V/s

State of Punjab

....Respondent

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Mohit Sadana, Advocate for the petitioner.
Mr. Anup Singh AAG Punjab.
Mr. K.S. Sidhu, Advocate for the complainant.

SUMEET GOEL, J.

1. On 21.07.2023, the following order was passed:-

“Prayer in this petition filed under Section 438 Cr.P.C. is for grant of anticipatory bail to the petitioner in case FIR No. 16 dated 18.3.2023, under Sections 498-A, 406, 323 and 506 IPC, registered at Police Station Women, SAS Nagar (Mohali).

As per office report, short reply by way of affidavit of complainant has been filed, which is annexed with the report. The same is taken on record. Copy thereof supplied to learned counsel for the petitioner.

Vide order dated, the matter was referred to the Mediation and Conciliation Centre of this Court. As per report of the Mediator dated 04/07.07.2023, the mediation has been failed.

Learned counsel for the petitioner submits that the present dispute arising out of matrimonial discord. He submits that in the month of April 2022, a normal communication between the petitioner-husband and complainant-wife turned into a brawl. Due to temperamental

differences between the couple, the complainant left her matrimonial home and registered the present case against the petitioner. Learned counsel submits that no recovery is to be effected from the petitioner and the complainant- wife had already taken away all the gifts including gold articles gifted to her at the time of marriage, at the time when she leave the matrimonial home. He submits that the gold articles, gifts extended to the parents of the petitioner, are in their safe custody and the parents of the petitioner are willing and ready to give back the said gift items before the learned Court.

Learned State counsel is directed to file the detailed status report in the matter on or before 10.1.2024.

In the meantime, the petitioner is directed to appear before the SHO/Investigating Officer to join investigation and in the event of his arrest, he shall be released on bail on his furnishing bail bonds to the satisfaction of SHO/Investigating Agency subject to the following conditions as envisaged under Section 438(2) Cr.P.C.:-

- i) that the petitioner shall make himself available for interrogation before the Investigating Officer as and when required;*
- ii) that the petitioner shall not, directly or indirectly, make any inducement,, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer;*
- iii) that the petitioner shall not leave the country, without prior permission of the Court and shall surrender his passport, if any.*

Meanwhile, State counsel is directed to file an affidavit/status report as to the exact role of the petitioner alongwith the details of pending FIRs, if any, on or before the next date of hearing.”

2. Learned State counsel on instructions has stated that pursuant to aforesaid order dated 21.07.2023, the petitioner has joined investigation and is no longer required for custodial interrogation.

3. Learned counsel for the complainant has vehemently opposed the grant of pre-arrest bail to the petitioner by arguing that the entire dowry articles have not been recovered and the petitioner is indulging in delaying the investigation. Learned counsel has further referred to a complaint made by the complainant-wife to Incharge, Police Station Women, Phase-VIII, SAS Nagar, Mohali regarding extending threats for committing suicide in case the complainant does not withdraw the cases filed by her against the petitioner.

4. The veracity of the allegations made by the complainant regarding threats extended to her will, of-course, be seen by the concerned Police authorities in appropriate proceedings. As far as the aspect of non-recovery of entire dowry articles is concerned, in my considered opinion, the same cannot be the basis of rejection of a plea for pre-arrest bail in a FIR registered under Sections 498-A, 406, 323 and 506 IPC.

5. In view of above, the interim order dated 21.07.2023 passed by this Court is made absolute, subject to the conditions as enumerated under Section 438(2) Cr.P.C.

6. This order should not be treated as “blanket” order. It will not be read 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.

7. 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.

8. Needless to say that anything observed herein above shall not

be construed to be an opinion on the merits of the case.

(SUMEET GOEL)
JUDGE

January 11, 2024
Ajay

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