

**CRM-M-24257 of 2024** 1**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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**CRM-M-24257 of 2024 (O&M)
DATE OF DECISION :- 20.08.2024****Sahil Kumar****...Petitioner****Versus****State of Punjab and another****...Respondents****CORAM: HON'BLE MR. JUSTICE SUMEET GOEL****Present:-** Mr. Ishan Gupta, Advocate
with Ms. Harita Panthey, Advocate for the petitioner.

Mr. Anup Singh, AAG, Punjab.

Mr. Puneet Sharma, Advocate for respondent No. 2.

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. 132 dated 08.11.2023, registered for offences under Sections 406, 498-A of the IPC, at Police Station City Nakodar, District Jalandhar.

2. On 17.05.2024, the following order was passed:-

“The instant petition for grant of pre arrest bail has been filed by the petitioner Sahil Kumar in case arising out of FIR No.132 dated 08.11.2023 registered under Sections 406 and 498-A of IPC at Police Station City, Nakodar, District Jalandhar Rural, on the basis of a written complaint filed by the respondent No.2-complainant, who is his wife on the allegations that she got married with the petitioner on 07.09.2022. At the time of roka ceremony as well as marriage ceremony, huge amount of money was spent by her parents and dowry articles in the shape of gold ornaments, shagun cash etc. had been given to her husband and other members of her in-laws family as well as relatives. Soon after the marriage, her in-laws started harassing her on account of bringing insufficient and inferior quality of dowry. They used to say that they were expecting a bag full of cash, luxury



car and rolex watch. She was forced by her husband to wear short dresses. His sister-in-law even slapped her on 26.04.2023. His parents-in-law used to instigate the petitioner to seek divorce from the complainant. The complainant while quoting several instances of act and conduct of the petitioner and her in-laws alleged that she was forced to leave her matrimonial home on 29.07.2023 and was living with her parents. It was also alleged by her that her dowry articles were with her in-laws and they were not returning the same. After registration of FIR, investigation proceedings have been initiated and are underway. The petitioner had moved an application for grant of pre arrest bail before the Court of learned Additional Sessions Judge, Jalandhar which had been dismissed vide order dated 03.05.2024.

It is argued by learned counsel for the petitioner that he has been falsely implicated in this case on the basis of vague, general, omnibus and non-specific allegations qua the respondent No.2 being subjected to cruelty on account of demand of dowry and qua misappropriation of her dowry articles. Infact, all the entire gold and silver jewellery including the ornaments which were gifted by family of the petitioner were kept by herself in a locker at Capital Bank, Chandigarh Road, Ludhiana. She took away the same by operating this locker on 01.10.2022 and no jewellery belonging to the complainant is under custody of the petitioner or his family members. It is also argued that infact it was a case of matrimonial discord between the complainant and the petitioner. The respondent No.2-complainant wanted to live an independent life separately from her in-laws whereas, it was not feasible for the petitioner to do so. She left her matrimonial house at her own by taking all articles belonging to her and this fact was reflected from the CCTV camera footage of his house. The custodial interrogation of the petitioner is not required. He is ready to join the investigation. Therefore, it is argued that the petition deserves to be allowed.

Notice of motion.

Ms. Ruchika Sabherwal, Sr. DAG, Punjab who has advance notice of the petition accepts notice on behalf of the respondent-State and seeks time to file status report.

At this stage, Mr. Puneet Sharma, Advocate has appeared on behalf of respondent No.2 and filed his Vakalatnama and the same is taken on record. Learned counsel has placed on record certain photographs taken during the course of marriage ceremony and roka ceremony of the petitioner with the respondent showing exchange of gifts between the families of the both of them and the screenshots taken from the social media account of the present petitioner. It is argued by learned counsel for



respondent No.2 that there are specific and serious allegations against the petitioner who along with his family members has been harassing the respondent No.2 since the very inception of their matrimonial life. She was extended threats to be given divorce. Demands of money had been raised by them for the purpose of starting business. She was asked to bring an amount of Rs.10 lacs from her parents. Her parents-in-law used to taunt her by saying that they were expecting cash amount of Rs.50 lacs and rolex watch from the family of respondent No.2 and thereby she was being harassed physically as well as mentally. He has also placed on record a pen-drive containing the conversation shows that there were harassment of respondent No.2 on account of demand of gold has been raised. This Court heard the conversations recorded in the pen-drive, as per which the father of respondent No.2 is heard to have been saying that the family of the petitioner was raising demand of gold for starting some business.

Adjourned to 01.08.2024.

In the meantime, the petitioner is directed to appear before the Investigating/Arresting Officer to join investigation within one week or as and when required. In the event of his arrest, the Investigating/Arresting Officer shall release the petitioner on interim bail on furnishing personal/surety bonds to his/her satisfaction. The petitioner shall also abide by the conditions as envisaged under Section 438(2) Cr.P.C.”

3. Learned State counsel, on instructions from SI Dilbagh Singh, has stated that pursuant to the order dated 17.05.2024, 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.
4. 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.
5. I have heard the learned counsel for the rival parties and have perused the paper book.



6. 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.”

7. 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.

8. In view of above, the petition is allowed and interim order dated 17.05.2024 passed by this Court is made absolute, subject to the conditions as enumerated under Section 438(2) Cr.P.C.

9. 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.

10. 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.

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

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

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

(SUMEET GOEL)
JUDGE

20.08.2024
P.Singh

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No