

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

208

CRM-M-26736-2023
Date of decision: 06.03.2024

Himanshu Verma

....Petitioner

V/s

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Mr.Ishant Arora, Advocate,
for the petitioner.

Mr.Anup Singh, AAG, Punjab.

Mr. Ashish Pannu, 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.85 dated 19.04.2023, registered for offences punishable under Sections 498-A, 406, 506, 354-A and 377 of the Indian Penal Code, 1860, at Police Station City-I, District Sangrur.

2. On 21.09.2023, the following order was passed:-

"1. Present petition is under Section 438 Cr.P.C. for seeking anticipatory bail to the petitioner in case FIR No.85 dated 19.04.2023 registered under Sections 498-A/406/406/354-A/377 IPC at Police Station City-I, Sangrur.

2. Status report by way of affidavit of Manoj Gors, PPS, Deputy Superintendent of Police, Sub Division, Sangrur on behalf of the respondent-State and the same is taken on record.

3. In terms of order dated 25.05.2023, the notice of motion was issued and it was directed that meanwhile, the arrest of the

petitioner may not be effected. Notice was also directed to be issued to the complainant.

4. Learned counsel for the petitioner contends that the marriage of the petitioner was solemnized with the complainant on 11.12.2021. There are vague allegations with regard to the demand of car without specifying the date of demand or make of the car regarding which any such demand was allegedly raised. The maternal uncle of the petitioner has been exonerated. The mother and -grand-father of the petitioner who are arraigned as accused, have been granted pre-arrest bail by the Court of Sessions. The allegations with regard to commission of offence under Section 377 IPC are not supported with any medical evidence. The petitioner was granted interim bail by the Court of Sessions at the first instance and the recovery of articles of Istri Dhan has been effected. Furthermore, the petitioner is ready and willing to amicably settle the dispute through mediation.

5. Learned State counsel has opposed the bail application on the score that the incident with regard to beatings given to the petitioner has been recorded in CCTV footage. However, it has been further submitted that there is no medical evidence to indicate with regard to the nature of injuries.

6. Learned counsel for the complainant has sought to dispute the contention as putforth by the learned counsel for the petitioner but submits that effort was made to explore the possibility of amicable settlement through mediation when the bail application was pending in the Court of Sessions. However, he fairly submits that the complainant is not averse to exploring another possibility of amicable settlement through the process of mediation in this Court.

7. The parties are directed to appear before the Mediation and Conciliation Centre of this Court on 16.10.2023.

8. To await the report, list on 11.12.2023.

9. However, the petitioner shall pay a sum of Rs.30,000/- to the complainant on her appearance before the Mediation and Conciliation Centre of this Court to facilitate her presence and participation during the course of mediation proceedings.

10. Meanwhile, it is directed that in the event of arrest, the petitioner be admitted on interim bail on furnishing bail bonds to the satisfaction of the Arresting Officer subject to the condition that he joins the investigation and comply with other conditions as specified under Section 438(2) Cr.P.C.”

Mediation proceedings initiated between the parties have not fructified.

3. Learned State counsel, on instructions from ASI Manoj Kumar, has stated that pursuant to the order dated 21.09.2023, 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.

4. 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.

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 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."

7. 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 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 21.09.2023 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.

(SUMEET GOEL)
JUDGE

March 06, 2024
poonam

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No