



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

215

CRM-M-28065 of 2024

DATE OF DECISION :- 12.08.2024

Vinay Kumar

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL**Present:-** Mr. Sahil, Advocate for the petitioner.

Mr. Anup Singh, AAG, Punjab.

SUMEET GOEL, J. (Oral)

Status report by way of affidavit of Sh. Tarlochan Singh, PPS, Deputy Superintendent of Police, Crime Against Women and Children Cell, Ludhiana (Rural) filed in the Court today. The same be taken on record. A copy thereof has been supplied to learned counsel for the petitioner.

1. This petition has been filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in FIR No. 0007 dated 03.12.2023, registered for offences under Sections 498-A, 406 of the IPC, at Police Station Women Cell, Jagraon, District Jagraon.

2. On 30.05.2024, the following order was passed:-

Present petition has been filed under Section 438 Cr.P.C. seeking anticipatory bail to the petitioner in case FIR No. 0007 dated 03.12.2023 registered under Sections 498-A & 406 of IPC at Police Station Women Cell, Jagraon, District Ludhiana, Punjab on the basis of complaint filed by complainant-Vishawnath making allegation of demand of dowry against the present petitioner and other members of his family and also further alleged that his daughter-Suman Yadav had been physically assaulted as well as mentally harassed on account of said demand.



Ultimately, she had to leave her matrimonial house on 29.01.2023.

It is argued by the learned counsel for the petitioner that the petitioner has been falsely implicated in this case. Allegations against the petitioner do not make out any case for commission of offence punishable under Section 406 of IPC. Even general, omnibus and false allegations have been levelled against him and his family members to implicate the petitioner under Section 498-A of IPC.

Notice of motion.

Learned State counsel who has advance notice of the petition seeks time to file status report.

At this stage, on oral request of learned counsel for the petitioner, the wife of the petitioner-Suman Yadav is ordered to be impleaded as respondent no.2.

Amended memo of parties be filed.

Adjourned to 12.08.2024.

Notice to respondent no.2 be issued for the date fixed.

In the meantime, the petitioner is directed to appear before the Investigating/Arresting Officer to join investigation within one week or as and when subsequently required thereafter. 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 ASI Gurbaaj Singh, has stated that pursuant to the order dated 30.05.2024, 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. Mr. L.S. Sidhu, Advocate has filed vakalatnama for respondent No. 2. The same be taken on record.

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 30.05.2024 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

12.08.2024
P.Singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No