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IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRM-M-30133-2022 (O&M)  
Date of Decision: 21.02.2024

GURDEEP SINGH  
Vs.  
STATE OF PUNJAB AND ANOTHER

.. Petitioner  
  
..Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Hardik Ahluwalia, Advocate for  
Mr. A.S. Manaise, Advocate for the petitioner.  
Mr. Adhiraj Singh Thind, AAG, Punjab.  
Mr. Vipin Mahajan, Advocate  
for respondent No.2/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.109 dated 23.06.2022,  
registered for offences under Sections 498-A, 406 and 34 of the Indian  
Penal Code, 1860, at Police Station Dinanagar, District Gurdaspur.
2. On 25.07.2022, the following order was passed:

*“Instant petition has been filed under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail in FIR No.109 dated 23.06.2022, registered for offences under Sections 498-A, 406 and 34 of the Indian Penal Code, 1860, at Police Station Dinanagar, District Gurdaspur (Annexure P-1).*

*Counsel for the petitioner submits that the petitioner is 64 year old father-in-law of the complainant. He submits that after marriage, his son and daughter-in-law had shifted to Europe and came back in April 2022 and FIR (Annexure P-1) is an outcome of acrimony between them. By referring to public notice dated 11.04.2022 (Annexure P-2), counsel submits that the petitioner had disowned his son and daughter-in-law as they used to harass him. He submits that the petitioner is ready to explore the possibility of settlement.*

*Notice of motion.*

*On asking of the Court, Mr. A.S.Gill, Senior Deputy Advocate General, Punjab accepts notice on behalf of State-respondent No.1. Upon instructions from*

*ASI, Rupinder Singh, he submits that there are 3 accused, namely, Raj Kumar, middleman to the marriage, who has been arrested, Nishan Singh, husband of the complainant, who has not been nabbed and Gurdeep Singh (present petitioner). Upon further instructions, he submits that recovery of dowry articles is to be effected from the petitioner as well as his son.*

*Mr. Vipin Mahajan, Advocate has put in appearance on behalf of complainant-respondent No.2 and has filed Power of Attorney, which is taken on record. He is not averse to exploring the possibility of settlement.*

*In view of above, parties are directed to appear before the Mediation and Conciliation Centre of this Court on 04.08.2022 at 10.00 A.M. (IST).*

*Learned Mediator is requested to associate the husband of the complainant also in mediation process through the medium of video conferencing, as he is stated to be abroad.*

*List on 19.01.2023 to await report of the Mediator.*

*On the day of appearance before the Centre, the petitioner will pay a sum of Rs.25,000/- by way of litigation and travelling expenses to the complainant, which will be a condition precedent to the initiation of the mediation proceedings.*

*The petitioner shall appear before the Investigating Officer at Police Station Dinanagar, District Gurdaspur on 01.08.2022 at 10.00 A.M. and join the investigation and would appear as and when called by the Investigating Officer. In the event of arrest, he shall be admitted to interim bail on his furnishing personal and surety bonds to the satisfaction of Arresting/Investigating Officer. He shall also abide by the conditions as specified under Section 438 (2) Cr.P.C.”*

3. Learned State counsel, on instructions from ASI Gursharan Singh, has stated that pursuant to the order dated 25.07.2022, 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 as alleged are in possession of the petitioner.

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

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 25.07.2022 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.

21.02.2024

Jasmine Kaur

(SUMEET GOEL)

JUDGE

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|---------------------------|-----|----|
| Whether speaking/reasoned | Yes | No |
| Whether reportable        | Yes | No |