

2024:PHHC:026135

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

206 **CRM-M-30579-2023**
Date of decision: 26.02.2024

Sahil Rikhi

...Petitioner

V/s

State of U.T., Chandigarh and another

....Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr.Amandeep Gulati, Advocate, for the petitioner.

Mr.Vivek Singla, Addl.P.P., U.T., Chandigarh.

Mr.Deepak Singh Saini, 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.30 dated 16.05.2023, registered for offences under Sections 406 & 498-A of the Indian Penal Code, 1860, at Women Police Station, District Chandigarh.

2. On 15.06.2023, the following order was passed:

“The instant petition has been filed under Section 438 of the Cr.P.C. for grant of anticipatory bail in case bearing FIR No. 30 dated 16.05.2023 registered under Sections 406 and 498-A of the Indian Penal Code, 1860 at Police Station Women Police Station, District Chandigarh (Annexure P-2).

Learned counsel appearing on behalf of the petitioner inter alia contends that the marriage in question was solemnized between the parties on 21.11.2021 and that the parties have been residing separately since 23.12.2021. He contends that the petitioner is ready and willing to join investigation and to render all

cooperation. There was no occasion or reason for the petitioner to be demanding any dowry and that a delayed FIR has been got registered only to pressurize the petitioner.

Notice of motion.

Pursuant to the supply of an advance copy, Mr. Deepinder Brar, Addl. Public Prosecutor, U.T. Chandigarh appears and accepts notice on behalf of respondent-State.

List on 25.09.2023 for further consideration.

In the meanwhile, the petitioner is directed to join investigation as and when so required by the Investigating Agency. In the event of petitioner joining investigation, he shall be admitted to interim bail by the arresting officer/investigating officer on furnishing of bail bonds by him to the satisfaction of the arresting officer/investigating officer. The petitioner shall also abide by the conditions as specified under Section 438(2) Cr.P.C."

3. Learned State counsel, on instructions, has stated that pursuant to the order dated 15.06.2023, 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/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 15.06.2023 passed by this Court are 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

February 26, 2024
poonam

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