IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

210 **CRM-M-29634 of 2024**
DATE OF DECISION :- 24.09.2024

Mahinder Singh Shekhawat **...Petitioner**

Versus

State of Punjab **...Respondent**

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. H.S. Thiara, Advocate for the petitioner.

Mr. Anup Singh, AAG, Punjab.

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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. 16 dated 12.03.2024, registered for offences under Sections 406,498-A of the IPC, at Police Station Women Cell, Jalandhar.

2. On 11.06.2024, the following order was passed:-

> *"Prayer in this petition under Section 438 Cr.P.C. is for grant of anticipatory bail in case FIR No.16 dated 12.03.2024, under Sections 406 and 498-A IPC, registered at Police Station Women Cell, Jalandhar.*
> *Petitioner is the husband of complainant, who has alleged that prior to and after her marriage with the petitioner in 2022, the petitioner was allegedly demanding money from her from time to time. It is alleged that complainant had given `4,77,000/- to the petitioner.*
> *It is contended by learned counsel for the petitioner that petitioner and the complainant knew each other since 2017. They fell in love with each other and ultimately, they got married in 2022. During the period from 2017 to 2022, they used to exchange of money. Learned counsel has referred the statements of account of the petitioner in this regard as Annexure P-2. Learned counsel also contends that the petitioner is ready to join the investigation.*
> *Notice of motion.*

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Mr. Somesh Arora, Addl. A.G., Punjab accepts notice on behalf of the respondent-State. A copy of paper book be supplied to him during the course of day.
Adjourned to 09.09.2024 for filing status report.
In the meantime, petitioner is directed to join investigation and co-operate in the same. He will not leave the country without prior permission of the Court nor shall make any attempt to contact the complainant of the case or any witness associated with the case. In the event of the arrest of the petitioner, he shall be released on interim bail on his furnishing personal/surety bonds to the satisfaction of the Arresting Officer/Investigating Officer. He shall also abide by conditions as envisaged under Section 438(2) Cr.P.C."

3. Learned State counsel, on instructions from ASI Sukhdev Singh, has submitted that pursuant to the order dated 11.06.2024, the petitioner has joined investigation and the only reason on account of which custodial interrogation is required of the petitioner is for recovery of dowry articles.

4. In response thereto, learned counsel for the petitioner has submitted that the petitioner and the complainant knew each other since 2016, fell in love and ultimately got married in the year 2022. Learned counsel for the petitioner has further submitted that non-recovery of dowry articles would not be a ground by itself to decline anticipatory bail to the petitioner especially when the petitioner has joined the investigation and is cooperating with the investigating agency on all other counts. In order to buttress his arguments, learned counsel for the petitioner has relied upon the dicta of the 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:-*

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(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."

5. I have heard the learned counsel for the rival parties and have perused the paper book.

6. Non-recovery of dowry articles/Istridhan 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 dowry articles/Istridhan. The aspect, as to what all are the dowry articles/Istridhan in question in the present case & whether the 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 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.

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7.. In view of above, the petition is allowed and interim order dated 11.06.2024 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.

(SUMEET GOEL)
JUDGE

24.09.2024
P.Singh

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No

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