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AT CHANDIGARH

CRM-M-29983 of 2024 (O&M)
DATE OF DECISION :- 08.08.2024

...Petitioner

Versus

...Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Ms. Meena, Advocate for
Mr. Amit Arora, Advocate for the petitioner.

Mr. Anup Singh, AAG, Punjab.

None 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. 4 dated 24.01.2024, registered for offences under Sections 498-A, 406 of the IPC, at Police Station Chohla Sahib, District Tarn Taran.

2. On 14.06.2024, the following order was passed:-

“Learned counsel for the petitioner inter alia submits that the parties are living separately since 19.07.2023. He also submits that the petitioner is willing to join investigation and abide by any condition imposed by this Court.

Notice of motion.

Mr. Jastej Singh, DAG, Punjab, who is present in Court, accepts notice on behalf of the respondent-State. Complete copy of the paper book be supplied to him during the course of the day List on 09.07.2024.

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In the meantime, the petitioner is directed to appear before the Arresting/Investigating Officer and join investigation. In the event of arrest, he shall be released on interim bail to the satisfaction of the Arresting/Investigating Officer, subject to compliance of the provisions of Section 438 (2) Cr.P.C.”

On 09.07.2024, the following order was passed:-

“Learned State counsel, on instructions from ASI Rajbir Singh, submits that the petitioner has joined investigation but no recovery whatsoever has been effected.

On the perusal of the paper book, it appears that the complainant has not been arrayed as a party-respondent in the main petition.

Faced with this situation, learned counsel for the petitioner has made an oral request to implead the complainant as a party-respondent.

Keeping in view the facts and circumstances of the case, complainant-Davinder Kaur w/o Sukhraj Singh d/o Jasbir Singh, r/o village Dubli, P.S. Sadar Patti, District Tarn Taran is impleaded as a party-respondent No.2

Registry is directed to carry out the requisite correction in the memo of parties.

Let fresh process be issued qua the newly added respondent No.2 for 22.07.2024.

Process dasti only.

It shall be the sole responsibility of the petitioner to serve newly added respondent. It is made clear that in case, the said respondent is not served, the interim order granted to the petitioner vide order dated 14.06.2024 may be liable to be vacated on this core alone.

Interim order to continue till the next date of hearing.”

Thereafter on 29.07.2024, the following order was passed :-

“Office note indicates that respondent No.2 stands served through her father. However, none has caused appearance on behalf of said respondent.

Learned State counsel, on instructions from ASI Makhan Singh, has submitted that the petitioner has joined investigation but is not cooperating therein especially for recovery of dowry articles/istradhan.

Faced with the situation, learned counsel for the petitioner submits that the petitioner may be afforded another opportunity to join investigation and co-operate therein in accordance with law.

Keeping in view the entirety of facts and circumstances of the case, the petitioner is directed to appear before the concerned Investigating Officer in the concerned Police

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Station on 02.08.2024 at 11 a.m. and join investigation as also co-operate therein in accordance with law.

Put up on 08.08.2024.

Interim order to continue till the next date of hearing.”

3. Learned State counsel, on instructions from ASI Gurmukh Singh, has stated that pursuant to the order dated 14.06.2024, the petitioner has joined investigation and is no longer required for custodial interrogation. However, learned State counsel has 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 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-

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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 14.06.2024 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



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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

08.08.2024
P.Singh

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No