

201

CRM-M-30218 of 2024 (O&M)
DATE OF DECISION :- 17.07.2024

...Petitioner

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. A.P.S. Deol, Senior Advocate
with Mr. Arun Kumar Goyat, Advocate for the petitioner.

Mr. Anup Singh, AAG, Punjab.

Dr. Sunil Malhan, Advocate for the 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. 0032 dated 11.05.2024, registered for offences under Sections 498-A, 406 of the IPC, at Police Station Women, Amritsar, District Amritsar.

2. On 20.06.2024, the following order was passed:-

“Prayer in the present petition is for grant of anticipatory bail to the petitioner in a case FIR No.32 dated 11.05.2024, registered under Sections 498-A, 406 IPC, at Police Station Women, Amritsar District, Amritsar.

Inter alia, it has been contended by learned Senior Counsel that the petitioner was married with the complainant on 08.03.2023 and thereafter, on account of matrimonial dispute, the complainant deserted the company of the petitioner on 23.10.2023 and took all articles. He submits that the petitioner tried his level best for resolving the dispute amicably, however, the false and frivolous FIR on the baseless allegations was lodged against the petitioner and his whole family. He submits



that notice under Section 41-A Cr.P.C. was issued to the petitioner and thereafter, the dowry articles were also returned which include to 30 tolas of gold ornaments and a Mahindra Car. He submits that de hors the merits of the case, the petitioner is still ready to settle the dispute amicably, if the matter is referred to the mediation center. He submits that in the facts and circumstances of the case, it is evident that the allegations are totally exaggerated and thus, no case for custodial interrogation of the petitioner is made out, however, he is ready to join the investigation and abide by all the terms and conditions of the anticipatory bail, if this Court considers his request for granting the same.

Notice of motion.

Mr. Rajeev K. Takkar, Deputy Advocate General, Punjab, accepts notice on behalf of the State. Dr. Sunil Malhan, Advocate, accepts notice on behalf of the complainant and he opposes the submissions made by counsel for the petitioner. He submits that the complainant was given merciless beatings by the petitioner and dowry articles are yet to be recovered. On the asking of this Court, learned counsel for the complainant has submitted that there are no chances of amicable settlement of either way.

Adjourned to 17.07.2024.

In the meantime, in the event of arrest, the petitioner shall be released on interim bail subject to the satisfaction of the Arresting Officer/Investigating Officer. The petitioner shall join investigation before the Investigating Agency/Officer. He shall abide by the following conditions as envisaged under Section 438(2) Cr.P.C:-

- (i) That the petitioner shall make himself available for interrogation by a police officer as and when required to do so.*
- (ii) That the petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the*



facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer.

(iii) That the petitioner shall not leave India without prior permission of the court.”

3. Learned State counsel, on instructions from ASI Kuldeep Singh, has stated that pursuant to the order dated 20.06.2024, 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. Learned counsel appearing for the complainant has vociferously opposed the grant of anticipatory bail to the petitioner by arguing that the allegations made against the petitioner are serious in nature; entire recovery has not been effected; the bank accounts of the complainant are yet being misused by the petitioner side; the Apple ID of the complainant is with the petitioner; second key of the vehicle in question is not being returned to the complainant & cash and other valuables are yet to be recovered.

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 20.06.2024 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.

(SUMEET GOEL)
JUDGE

17.07.2024
P.Singh

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