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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-31366-2023 (O&M)

Date of Decision: 21.02.2024

NAVIT KUMAR AND ANR

.. Petitioners

Vs.

STATE OF HARYANA & ANR.

..Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Parunjeet Singh, Advocate for the petitioners.

Ms. Mahima Yashpal, DAG, Haryana.

...

SUMEET GOEL, J. (Oral)

1. This petition has been filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioners in FIR No.48, dated 08.05.2023, registered under Sections 498-A, 323, 406, 506, 34 IPC, at Police Station Jatusana, District Rewari.
2. On 30.06.2023, the following order was passed:

“Petitioners pray for the pre-arrest bail in FIR No.48, dated 08.05.2023, registered under Sections 498-A, 323, 406, 506, 34 IPC, at Police Station Jatusana, District Rewari.

Learned counsel representing the petitioners inter alia contends that petitioner no.1 was married with the first informant on 20.10.2020 as he had developed a liking for her. He further submits that on account of a marital discord due to incompatibility of the couple, a false criminal case for demand of dowry and assault has been registered against petitioner no.1 and his mother (petitioner no.2).

Notice of motion.

On asking of the Court, Mr. Anant Kataria, DAG, Haryana, accepts notice on behalf of the State.

List on 10.08.2023.

In the meantime, in the event of arrest, the petitioners shall be released on interim bail subject to furnishing personal bonds and surety to the satisfaction

of the Arresting/Investigating Officer. However, the petitioners shall join the investigation as and when called upon to do so and shall abide by the conditions as provided under Section 438(2) Cr.P.C.”

3. Learned State counsel, on instructions from LHC Manisha, has stated that pursuant to the order dated 30.06.2023, the petitioners have joined investigation and are no longer required for custodial interrogation except for effecting recovery.

4. Learned counsel for the petitioners has submitted that no dowry articles/Istri-dhan as alleged are in possession of the petitioners.

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 petitioners especially when the State does not require custodial interrogation of petitioners 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 petitioners to deposit any amount towards the alleged non-recovery of complete dowry articles. No such misconduct by the petitioners has been pointed out which may dissuade this Court from confirming the interim anticipatory bail to the petitioners

8. In view of above, the petition is allowed and interim order dated 30.06.2023 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 petitioners 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 petitioners violate 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

(SUMEET GOEL)
JUDGE

Jasmine Kaur

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No