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CRM-M-32199-2024 (O&M)

219

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-32199-2024 (O&M)

Date of Decision: 31.07.2024

MANOJ KUMAR

.. Petitioner

Vs.

STATE OF HARYANA & ANR

..Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. G.C. Shahpuri, Advocate for the petitioner.

Ms. Ankita Ahuja, AAG, Haryana.

Mr. K.L. Saini, Advocate for

Mr. Som Nath Saini, Advocate for respondent No.2.

...

SUMEET GOEL, J. (Oral)

The instant petition has been filed on 05.07.2024 under Section 438 of Cr.P.C., 1973 for grant of anticipatory bail.

As per the judgment rendered by this Court titled '*Abhishek Jain Vs. State of U.T. Chandigarh and another*' (CRM-M-31808-2024) **2024PHHC085784**, the instant petition is not maintainable under Section 438 of Cr.P.C., 1973. However, keeping in view the entirety of facts and circumstances of the case especially that the instant petition pertains to anticipatory bail, the instant petition is directed to be considered as a petition under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023.

1. This petition has been filed for grant of anticipatory bail to the petitioner in FIR No.820 dated 31.12.2023 registered for offences

**CRM-M-32199-2024 (O&M)**

punishable under Sections 498-A, 323 and 34 of IPC at Police Station Mujessar, District Faridabad.

2. On 09.07.2024, the following order was passed:-

“Learned counsel for the petitioner, at the very outset, submits that, due to inadvertence, the complainant could not be impleaded as a party-respondent No.2 in this case. On his oral request, complainant i.e. Shashi w/o Manoj Sharma, r/o H.No.3362, Sanjay Colony, Sector-23, Gali No.13, Faridabad, is impleaded as party-respondent No.2.

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

Apprehending his arrest in FIR No.820 dated 31.12.2023 registered for offences punishable under Sections 498-A, 323 and 34 of IPC at Police Station Mujessar, District Faridabad; the petitioner has preferred this petition under Section 438 Cr.P.C. seeking pre-arrest bail.

*Inter alia contends that the FIR in question is a result of matrimonial discord between the petitioner and complainant-wife; the marriage of the petitioner was solemnized with the complainant way back in the year 2013 and two children have been born out of the wedlock on 07.06.2014 and 11.07.2018; petitioner is willing for an amicable settlement; petitioner is willing to return the dowry articles in his possession to the complainant-wife & petitioner is willing to join investigation and cooperate therein. In order to buttress his arguments, learned counsel for the petitioner has relied upon the dicta of the judgments rendered by the Hon'ble Supreme Court in **Arnesh Kumar Vs. State of Bihar, 2014 AIR (SCW) 3930**, and reiterated in **Md. Asfak Alam Vs. The State of Jharkhand & Anr., 2023 AIR (Supreme Court) 3610**.*

Notice of motion.

On asking of the Court, Ms. Mahima Yashpal, DAG, Haryana, appears and accepts notice on behalf of respondent No.1-State.

Adjourned to 25.07.2024.

The petitioner is directed to appear before the Investigating Officer on 12.07.2024 at 11:00 A.M. in concerned Police Station and join investigation. In the event of arrest, the petitioner shall be released on interim bail subject to his furnishing personal/surety bond(s) to the satisfaction of the Arresting Officer/Investigating Officer. As and when further called by Investigating Officer, the petitioner shall join the investigation. He shall abide by the condition(s) enumerated under Section 438(2) of the Cr.P.C.

The present order is directed to enure in respect of offence under Section 406 of IPC as well.”

On 25.07.2024, the following order was passed:

**CRM-M-32199-2024 (O&M)**

“Mr. Som Nath Saini, Advocate has filed Vakalatnama for respondent No. 2. The same be taken on record.

Learned counsel for respondent No. 2 has submitted that the petitioner has not returned any dowry articles especially gold articles to the complainant.

Faced with the situation, learned counsel for the petitioner submits that the petitioner shall re-join the investigation and cooperate therein in accordance with law.

The petitioner is directed to appear before the concerned Investigating Officer on 27.07.2024 at 11:00 A.M. in concerned Police Station and shall make positive endeavour for effecting recovery of dowry articles/Istridhan in accordance with law.

Adjourned to 31.07.2024.

Interim order to continue.”

4. Learned State counsel, on instructions from HC Kavita, has stated that pursuant to the order dated 25.07.2024, the petitioner has re-joined investigation and is no longer required for custodial interrogation. Learned State counsel has further stated that the petitioner has brought certain articles to be returned to the complainant but the complainant has refused to accept the same.

5. Learned counsel for the complainant has vehemently opposed the grant of anticipatory bail on the ground that the allegations made against the petitioner are serious in nature & hence he ought not to be granted the concession of pre arrest bail. Learned counsel for the complainant has further submitted that the recovery of dowry articles especially gold articles is yet to be effected and hence the present petition deserves to be rejected.

6. Keeping in view the entirety of facts and circumstances of the case especially that that the petitioner has joined investigation and is not required for custodial interrogation except for recovery of alleged dowry articles/istridhan; this Court deems it appropriate to confirm the interim protection earlier granted to the petitioner by this Court vide order dated

CRM-M-32199-2024 (O&M)

09.07.2024, subject to the conditions as enumerated under Section 482(2) BNSS, 2023.

7. Ordered accordingly.
8. 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.
9. 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 482(2) BNSS, 2023 or upon showing any other sufficient cause.
10. Needless to say that anything observed herein above shall not be construed to be an opinion on the merits of the case.
11. Pending applications, if any, shall also stand disposed off.

31.07.2024
Jasmine Kaur

(SUMEET GOEL)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No