

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH
203

CRM-M-33581-2023
Date of decision: 30.05.2024

MUNISH
V/s
STATE OF PUNJAB
...PETITIONER
...RESPONDENT

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. M.K. Bhatnagar, Advocate
for the petitioner.

Mr. Yuvraj Singh Tiwana, AAG, Punjab.

Ms. Vasundra Bhandari, Advocate for
Mr. Abhey Joshi, Advocate
for the complainant.

SUMEET GOEL, J.

1. This petition has been filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in FIR No.29 dated 19.05.2023, registered for offences punishable under Sections 406, 498-A of the Indian Penal Code, 1860, at Police Station Women Cell, District SAS Nagar.

2. On 17.07.2023, the following order was passed:-

CRM No.28502 of 2023

Heard.

Keeping in view the reasons as mentioned in the present application, the same is allowed as prayed for.

CRM-M No.33581 of 2023

The petitioner herein seeks the relief of anticipatory bail in the criminal case arisen out of the FIR bearing No.29 dated 19.05.2023 registered at Police Station Women Cell, District SAS Nagar, under Sections 406 & 498-A IPC.

Learned counsel for the petitioner, inter-alia, contends that the petitioner has been got falsely implicated in the subject FIR because the parents of the complainant had been interfering in their matrimonial life from the very beginning and the petitioner is ready to join in the investigation as and when required and he is also not involved in any other criminal case. Notice of motion.

Mr. Kunwarbir Singh, learned Assistant Advocate General, Punjab, who has appeared in this case in pursuance of the copy of the instant petition having been sent to the respondent-State in advance, accepts the notice and he seeks some time to get proper and complete instructions qua the present matter from the quarter concerned and if deemed necessary, then to file the status-report also.

Adjourned to 15.11.2023.

Meanwhile, in the vent of his arrest, the petitioner shall be released on interim bail subject to his furnishing the requisite personal as well as surety bonds to the satisfaction of the Arresting/Investigating Officer. However, the petitioner shall join in the investigation as and when required/called upon to do so and shall also strictly abide by all the conditions as laid down in Section 438(2) Cr.P.C.”

3. Learned State counsel, on instructions from ASI Shashvir Singh, has stated that pursuant to the order dated 17.07.2023, 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 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 principle 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/Istri-dhan 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/Istri-dhan. The aspect, as to what all are the dowry articles/Istri-dhan in question in the present case & whether the entire dowry articles have been or not, shall be essentially gone into during 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 17.07.2023 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 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

May 30, 2024
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