



**IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH**

**287**

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**CRM-M No.36036 of 2023  
Date of decision : 20.11.2024**

**Mohd. Imran** .....**Petitioner**  
**Versus**  
**State of Punjab and another** .....**Respondents**

**CORAM: HON'BLE MR. JUSTICE SUMEET GOEL**

Present: Mr. D.K. Sharma, Advocate, for the petitioner  
  
Mr. Yuvraj Singh Tiwana, AAG Punjab  
  
Mr. Vansh Chawla, Advocate, for respondent no.2  
  
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**SUMEET GOEL, J. (ORAL)**

1. Present petition has been filed under Section 438 of the Cr.P.C. for pre arrest bail of the petitioner in case FIR No.60 dated 19.3.2022, under Sections 406 and 498-A of IPC, registered at Women Police Station, Police Commissionerate, Ludhiana.
2. On 27.7.2023, the following order was passed:-  
  
*'1. Present petition is under Section 438 Cr.P.C. for seeking anticipatory bail to the petitioner in case FIR No.60 dated 19.03.2022 registered under Sections 406/498-A IPC at Women Police Station, Police Commissionerate Ludhiana, District Ludhiana.*  
  
*2. Learned counsel for the petitioner contends that the marriage of the petitioner was solemnized with the complainant/respondent No.2 on 29.03.2015 and a son has been born from the wedlock. At the earlier instance, the complainant/respondent No.2 had submitted a complaint to the police at Ludhiana. The matter was amicably settled in the year 2019*



*and the complainant/respondent No.2 started residing in the matrimonial house. The allegations with regard to miscarriage are not substantiated with any medical evidence. Even, the offence under Section 313 IPC has not been incorporated in the instant case. The parents of the petitioner have been granted anticipatory bail by the Court of Sessions. The custody of the minor child is with the complainant/respondent No.2. The petitioner is working as a labourer. Furthermore, the petitioner is ready and willing to amicably settle the matter.*

*3. Notice of motion.*

*4. Ms. Ruchika Sabherwal, DAG, Punjab accepts notice on behalf of the respondent-State.*

*5. The parties are directed to appear before the Mediation and Conciliation Centre of this Court on 17.08.2023.*

*6. To await the report, list on 06.09.2023.*

*7. However, the petitioner shall pay a sum of Rs.20,000/- to respondent No.2/complainant on her appearance before the Mediation and Conciliation Centre of this Court to facilitate her presence and participation during the course of mediation proceedings.*

*8. Meanwhile, it is directed that in the event of arrest, the petitioner be admitted on interim bail on furnishing bail bonds to the satisfaction of the Arresting Officer subject to the condition that he joins the investigation and comply with other conditions as specified under Section 438(2) Cr.P.C.'*

The parties were referred to mediation but the same do not fructified.

3. Learned State counsel (on instructions) has stated that pursuant to the order dated 27.7.2023, 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 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 27.7.2023 passed by this Court is made absolute, subject to the conditions as enumerated under Section 438(2) of Cr.P.C.

9. This order should not be treated as “blanket” order. It will not be read 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) of Cr.P.C., 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.

(SUMEET GOEL)  
JUDGE

20.11.2024  
*Ashwani*