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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-40487-2022 (O&M)

Date of Decision: 14.02.2024

DALWINDER SINGH

.. Petitioner

Vs.

STATE OF PUNJAB AND ANOTHER

..Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Harsh Aggarwal, Advocate for the petitioner.

Mr. Anup Singh, AAG, Punjab.

Mr. Maninder Arora, Advocate
for respondent No.2.

...

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.35 dated 06.07.2022, registered for offences under Sections 406, 498-A and 506 of the Indian Penal Code, 1860, at Police Station Women, District Patiala.
2. On 06.09.2022, the following order was passed:-

“Instant petition has been filed under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail in FIR No.35 dated 06.07.2022, registered for offences under Sections 406 and 498-A of the Indian Penal Code, 1860, at Police Station Women, District Patiala, Annexure P-1.

Notice of motion.

On asking of the Court, Mr. P.S.Grewal, DAG, Punjab accepts notice on behalf of State-respondent No.1. Mr. Maninder Arora, Advocate has put in appearance on behalf of complainant-respondent No.2 and has filed Power of Attorney, which is taken on record.

Counsel representing the private parties have requested that as there is possibility of settlement between the parties, the matter be referred to the

Mediation and Conciliation Centre of this Court. Their request is accepted.

Parties are directed to appear before the Mediation and Conciliation Centre of this Court on 12.09.2022 at 10.00 A.M.

List on 15.02.2023 to await report of the learned Mediator.

On the day, the parties appear before the Centre, the petitioner will pay a sum of Rs.25,000/- by way of litigation and travelling expenses to complainant-respondent No.2, which will be a condition precedent to the initiation of the mediation proceedings.

In the meanwhile, arrest of the petitioner shall remain stayed till the next date.”

3. On 26.07.2023, the following order was passed:

“Learned counsel for the petitioner submits that the petitioner has joined the investigation.

On instructions, learned counsel for the State submits that though the petitioner has joined the investigation, but recovery of dowry articles is yet to be effected from him. She further submits offence under Section 506 has also been added to the present FIR.

Learned counsel for the petitioner seeks time to file appropriate application for amendment in the main petition.

Adjourned to 23.11.2023.

In the meanwhile, the petitioner is again directed to join the investigation and co-operate with the investigating agency as and when called by the Investigating Agency to do so.

Interim order to continue till the next date of hearing.”

4. Learned State counsel, on instructions from ASI Tejinder Pal, has stated that pursuant to the orders dated 06.09.2022 and 16.10.2023, 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.

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

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 orders dated 06.09.2022 and 16.10.2023 passed by this Court are 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.

13. Pending application(s), if any, shall also stand disposed off.

14.02.2024

Jasmine Kaur

(SUMEET GOEL)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No