

CRM-M-38885 of 2024

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

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CRM-M-38885 of 2024 (O&M)
DATE OF DECISION :- 12.09.2024

Gurbrinder Singh**...Petitioner**

Versus

State of Punjab**...Respondent****CORAM: HON'BLE MR. JUSTICE SUMEET GOEL**

Present:- Mr. S.S. Sarwara, Advocate
with Ms. Khushika Setia, Advocate for the petitioner.

Mr. Anup Singh, AAG, Punjab.

Mr. Mandeep Singh, Advocate for the complainant.

SUMEET GOEL, J. (Oral)

1. This petition has been filed under Section 482 of BNSS for grant of anticipatory bail to the petitioner in FIR No. 49 dated 27.05.2024, registered for offences under Sections 323,498-A of the IPC, at Police Station IT City, S.A.S. Nagar.

2. On 13.08.2024, the following order was passed:-

Inter alia contends that the genesis of the FIR in question is a matrimonial discord between the petitioner and the complainant-wife; petitioner is willing to hand-over all the entire dowry articles /Istridhan in his possession including gold articles; petitioner is willing for an amicable settlement and is ready to appear before the Mediation and Conciliation Centre of this Court as well & the petitioner is also willing to join investigation and cooperate therein.

In order to show bona fide of the petitioner, learned counsel has submitted that the petitioner shall furnish an amount of Rs.40,000/- to the complainant-wife on her appearance being made before the Mediation and



Conciliation Centre of this Court.

The petitioner is also directed to appear before the Investigating Officer on 17.08.2024 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.

Keeping in view the totality of the facts and circumstances of the case, the parties (through their respective learned counsel) are directed to appear before the Mediation and Conciliation Centre of this Court on 20.08.2024 or any other date fixed thereafter for exploring the possibility of amicable settlement. Learned counsel for the parties undertake to assist the said Forum during the proceedings.

On appearance being made by the respondent before the Mediation and Conciliation Centre of this Court, learned counsel for the petitioner is directed to furnish a sum of Rs.40,000/- towards her travelling/litigation expenses.

Let the matter be listed again before this Court on 12.09.2024 along with the report of the Mediator.”

3. Learned State counsel, on instructions from ASI Rakesh Kumar, has stated that pursuant to the order dated 13.08.2024, 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/Istridhan are in possession of the petitioner and, in fact, the entire dowry articles/Istridhan 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 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 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 dowry articles have been recovered or not, shall be essentially gone into during the

