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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-42295-2024 (O&M)

Date of Decision: 16.10.2024

NANDKUMAR PARSRAM AILANI AND ANR

.. Petitioners

Vs.

STATE OF PUNJAB AND ANR

..Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. S.S. Rang, Advocate for the petitioners.

Mr. Anup Singh, AAG, Punjab.

Mr. Simranjit Singh, Advocate
for respondent No.2.
(through Video Conferencing)

...

SUMEET GOEL, J. (Oral)

1. This petition has been filed under Section 482 BNSS, 2023 for grant of anticipatory bail to the petitioners in FIR No.17 dated 24.03.2024, registered for offences under Sections 406 and 498-A of the Indian Penal Code, 1860, at Police Station PS NRI, District SAS Nagar, Mohali.

2. On 09.09.2024, the following order was passed:

“Short reply by way of affidavit of Ashok Kumar, PPS, Deputy Superintendent of Police, NRI Wing, District SAS Nagar, has been filed in Court today. The same be kept on record. Copy thereof has been furnished to learned counsel for the petitioner.

Paragraph no.6 of the said reply reads as under:

That thereafter, the accused/petitioners joined the investigation of the rpresent case/FIR on 20/06/2024, in compliance of the order dated 28/5/2024 passed by the Ld. Court of Additional Sessions Judge, District SAS Nagar, however, they did not cooperate with the investigation and did not get any recovery effected and accordingly, the bail application of the petitioners was dismissed by the Ld. Court of Additional Sessions Judge, District SAS Nagar vide order dated 29.7.2024.



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An application bearing CRM No.35839 of 2024 has been submitted on behalf of respondent no.2. The same is also taken on record.

*Learned counsel for the petitioner inter alia contends that the genesis of the FIR in question is a matrimonial dispute between the petitioner and respondent no.2; petitioners are willing to return all the dowry articles/istridhan including gold, silver and diamond articles in their possession to respondent no.2; petitioners are ready for an amicable settlement as well & are willing to join investigation and cooperate therein in accordance with law. In order to buttress his arguments, learned counsel for the petitioners 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**.*

Adjourned to 16.10.2024.

The petitioners are directed to appear before the Investigating Officer on 12.9.2024 at 11:00 A.M. in concerned Police Station and join investigation. In the event of arrest, the petitioners shall be released on interim bail subject to their furnishing personal/surety bond(s) to the satisfaction of the Arresting Officer/Investigating Officer. As and when further called by Investigating Officer, the petitioners shall join the investigation. They shall abide by the condition(s) enumerated under Section 482(2) of Bharatiya Nagarik Suraksha Sanhita, 2023."

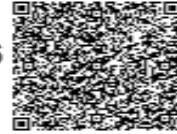
3. Learned State counsel, on instructions from Inspector Tajinder Singh, has stated that pursuant to the order dated 09.09.2024, the petitioners have joined investigation and are no longer required for custodial interrogation. However, learned State counsel as also the learned counsel for the complainant 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 petitioners has submitted that no dowry articles/Istridhan as alleged are in possession of the petitioner.

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:-

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(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 petitioners especially when the State does not require custodial interrogation of petitioners on any other account 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 course of trial. No accentuating circumstances are decipherable, from the factual matrix of the present case, so as to direct the petitioners to deposit any amount towards the alleged non-recovery of complete dowry articles. No such misconduct by the petitioners has been



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pointed out which may dissuade this Court from confirming the interim anticipatory bail to the petitioners.

8. In view of above, the petition is allowed and interim order dated 09.09.2024 passed by this Court is made absolute, subject to the conditions as enumerated under Section 482(2) BNSS, 2023.

9. This order should not be treated as “blanket” order. It will not be interpreted as granting petitioners 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 petitioners violate any condition stipulated under Section 482(2) BNSS, 2023 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.

16.10.2024

Jasmine Kaur

(SUMEET GOEL)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No