

201-A

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-48426-2022 (O&M)

Date of Decision: 16.02.2024

Jasvir Singh @ Jasveer

.. Petitioner

Vs.

State of Punjab and another

..Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. P.B.S. Goraya, Advocate for the petitioner.

Mr. Adhiraj Singh Thind, AAG, Punjab.

Mr. S.S. Rana, 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.142 dated 12.09.2022 registered under Section 498-A, 323, 325 and 34 of the IPC (offences under Sections 148, 149 and 120-B of the IPC were mentioned in bail order Annexures P-4 and P-5) at Police Station Lalru, District SAS Nagar.
2. On 16.11.2022, the following order was passed:

“The petitioner has filed the present petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail in case FIR No.142 dated 12.09.2022 registered under Section 498-A, 323, 325 and 34 of the IPC (offences under Sections 148, 149 and 120-B of the IPC were mentioned in bail order Annexure P-4 and P-5) at Police Station Lalru, District SAS Nagar.

Learned counsel for the petitioner contends that the petitioner, who is husband of the complainant, has been falsely implicated in the present case. There is no specific allegations of demand of dowry against the petitioner. The only allegation against the petitioner is that he slapped the complainant. Parents of the petitioner have already been granted concession of interim bail by this Court vide order dated 12.10.2022.

The petitioner is already ready and willing to join the investigation.

Notice of motion.

On the asking of the Court, Mr. Jaspal Singh Guru, Asstt. A.G., Punjab, who is present in the Court, accepts notice on behalf of respondent No.1-State and seeks time to complete his instructions.

Adjourned to 21.02.2023.

To be heard with CRM-M-46921-2022.

Notice to respondent No.2 be issued for the date fixed.

In the meanwhile, the petitioner is directed to join the investigation and appear before the Investigating Officer within 10 days from today and on his doing so, the petitioner shall be released on interim anticipatory bail subject to his furnishing personal/surety bonds to the satisfaction of the Arresting/Investigating Officer. The petitioner shall also abide by the conditions as specified under Section 438(2) of the Cr.P.C.”

3. Learned State counsel, on instructions from ASI Baljinder Singh, has stated that pursuant to the order dated 16.11.2022, 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 are 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 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 16.11.2022 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.

16.02.2024

(SUMEET GOEL)

JUDGE

Jasmine Kaur

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No