

2024:PHHC:032041

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

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CRM-M-47405-2023

Date of decision: 06.03.2024

Satwinder Singh Minhas

....Petitioner

V/s

State of Punjab and another

....Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Satyaveer Singh, Advocate, for the petitioner.

Mr. Anup Singh, AAG, Punjab.

Mr. Devinder Kumar, 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 09.06.2023, registered for offences punishable under Sections 406/498-A of the Indian Penal Code, 1860, at Police Station Women, District Women Cell, S.A.S, Nagar.

2. On 20.09.2023, the following order was passed:-

“1. The petitioner is seeking anticipatory bail in the case bearing FIR No. 35 dated 09.06.2023 under Sections 406/498-A IPC registered at Police Station Women Cell, SAG Nagar.

2. Learned counsel for the petitioner contends that it was 3rd marriage of the petitioner with the complainant. The petitioner was gainfully employed in Singapore. The earlier marriages ended in divorce by mutual consent as earlier wives never wanted to reside in Singapore. The petitioner is aged about 48 years and

the complainant is aged about 44 years. The marriage of the petitioner was solemnized with the complainant on 18.02.2018. It was a simple marriage solemnized without any exchange of dowry articles. The complainant had joined the company of the petitioner in Singapore. However, on account of Covid-19 Pandemic, the petitioner lost his job in Singapore and returned back to India. The complainant had left the matrimonial house on 28.09.2022. The petitioner had lodged the missing report with the police. From the call records, he came to know that the complainant is residing in her parental house in Mohali. The petitioner has also instituted a petition under Section 13 of the Hindu Marriage Act for dissolution of marriage. The petitioner was granted interim bail by the Court of Sessions but the bail application has been dismissed primarily on the score that recovery of dowry articles and educational certificates of the complainant was yet to be effected. In fact, the petitioner is not in possession of any articles of istrydhan or educational certificates of the complainant/respondent No.2. The petitioner is ready and willing to amicably settle the matrimonial dispute.

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 04.10.2023.

6. The petitioner shall also pay a sum of Rs.30,000/- to the complainant/respondent No.2 on her appearance before the Mediator to facilitate her presence and participation during the course of mediation proceedings.

7. The report be awaited for 07.12.2023.

8. In the meanwhile, the petitioner is directed to join investigation and in the event of his arrest, he shall be released on interim bail to the satisfaction of the Investigating Officer/Arresting Officer subject to the conditions as envisaged under Section 438 (2) of Code of Criminal Procedure.”

Mediation proceedings initiated between the parties have not fructified.

3. Learned State counsel, on instructions from ASI Mandeep Kaur, has stated that pursuant to the order dated 20.09.2023, 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 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 20.09.2023 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.

(SUMEET GOEL)
JUDGE

March 06, 2024
poonam

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No