

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-47359-2023

Date of decision: 01.03.2024

Gagandeep Singh

....Petitioner

V/s

State of Punjab and another

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr.Harshit Jain, Advocate, for the petitioner.

Mr.Anup Singh, AAG, Punjab.

Mr. M.K. Singla, Advocate with
Mr. Dinesh Kumar, Advocate for
complainant-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.010 dated 31.08.2023, registered for offences punishable under Sections 498-A/406 of the Indian Penal Code, 1860, at Police Station Women, District Sangrur.

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

“1. The petitioner is seeking anticipatory bail in the case bearing FIR No. 010 dated 31.08.2023 under Sections 498-A/406 IPC registered at Women Police Station, Sangrur, District Sangrur.

2. Learned counsel for the petitioner contends that the allegations were levelled against the petitioner and other family members but the FIR was registered only against the petitioner. The marriage of the petitioner was solemnized with respondent No.2 on 24.11.2021 but no child has been born from the wedlock. The false and vague allegations with regard to demand of dowry and harassment have been levelled. The allegations with regard to giving beatings to respondent No.2 pertain to 26.06.2022 on which date, the petitioner was on election duty. Moreover, 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 respondent No.1-State.*

5. *Mr. Parminder Singla, Advocate, has joined the proceedings on behalf of respondent No.2 and contends that respondent No.2 is ready and willing to accompany the petitioner to the matrimonial house.*

6. *Faced with this situation, learned counsel for the petitioner seeks adjournment to get instructions in the matter.*

7. *Adjourned to 27.09.2023.*

8. *The petitioner and respondent No.2 be produced in the Court on the date fixed.*

9. *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.”*

3. Learned State counsel, on instructions from ASI Gurdev 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.

March 01, 2024
poonam

(SUMEET GOEL)
JUDGE