

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

205

CRM-M-48231-2023
Date of decision: 05.04.2024

VIRAT GULIA

...PETITIONER

V/s

STATE OF PUNJAB AND ANOTHER

...RESPONDENTS

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Harish Goyal, Advocate
for the petitioner.

Mr. Yuvraj Singh Tiwana, AAG, Punjab.

Mr. Naveen Bawa, Advocate
for respondent No.2-complainant.

SUMEET GOEL, J.

1. This petition has been filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in FIR No.100 dated 19.07.2022, registered for offences punishable under Sections 498-A & 406 of the Indian Penal Code, 1860, at Police Station Dugri, Ludhiana.

2. On 03.10.2023, the following order was passed:-

“The petitioner herein seeks the relief of anticipatory/pre-arrest bail in the criminal case arisen out of the FIR bearing No.100 dated19.07.2022 as registered at Police Station Dugri, Ludhiana, under Sections 498-A and 406 IPC.

Learned counsel for the petitioner, inter-alia, contends that the petitioner had never ever subjected respondent No.2-complainant to cruelty as alleged in the subject FIR and rather, the parties had, earlier, settled the matter amicably and the petitioner had even made the part payment of Rs.4.5 lac to the complainant in pursuance thereof but later-on, she refused to abide by the afore-said settlement/compromise and moreover,

the petitioner is ready and willing to join in the investigation as and when required by the Investigating Agency and he is also not involved in any other criminal case.

Notice of motion.

Mr. Virat Rana, learned Assistant Advocate General, Punjab, who has appeared in this case in pursuance of the copy of the instant petition having been sent to the respondent-State in advance, accepts the notice. He seeks some time to get proper and complete instructions qua the present matter from the quarter concerned and if deemed necessary, then to file the status-report also.

Mr. Naveen Bawa, Advocate, has also put in appearance on behalf of respondent No.2-complainant and has submitted his Power of Attorney in the Court and the same is taken on the record. He accepts the notice on behalf of the said respondent and submits that respondent No.2-complainant/wife is still ready for the amicable settlement of the instant matter.

At this stage, learned counsels for the petitioner as well as for respondent No.2 jointly request to refer the present matter to the Mediation and Conciliation Centre of this Court to explore the possibility of any settlement/compromise between the parties.

Accordingly, the instant matter be put up in the above-said Centre on 18.10.2023.

The petitioner as well as respondent No.2 are directed to appear there on the date fixed. The report of the Mediator be awaited for 30.01.2024.

Meanwhile, the petitioner shall join in the investigation on 20.10.2023 at 10:00 AM sharp and if there need be, even thereafter and in the event of his arrest, he shall be released on interim bail subject to his furnishing the requisite personal and surety bonds to the satisfaction of the Arresting/ Investigating Officer and he shall also strictly abide by all the conditions as laid down in Section 438(2) Cr.P.C. ”

3. Learned State counsel, on instructions from ASI Jagtar Singh, has stated that pursuant to the order dated 03.10.2023, 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 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 03.10.2023 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

April 05, 2024
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No