

CRM-M-47259 of 2024

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

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CRM-M-47259 of 2024

DATE OF DECISION :- 07.11.2024

Yogesh Kakkar

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL**Present:-** Mr. Fatehjeet Singh, Advocate for the petitioner.

Mr. Anup Singh, AAG, Punjab.

Mr. Naveen Batra, Advocate for respondent No. 2.

SUMEET GOEL, J. (Oral)

1. This petition has been filed under Section 482 of BNSS, 2023 for grant of anticipatory bail to the petitioner in FIR No.183 dated 08.08.2024 registered for offences punishable under Sections 85 and 316(2) of BNS, 2023 at Police Station Model Town, Hoshiarpur.

2. On 23.09.2024, the following order was passed:-

“Apprehending his arrest in FIR No.183 dated 08.08.2024 registered for offences punishable under Sections 85 and 316(2) of BNS, 2023 at Police Station Model Town, Hoshiarpur; the petitioner has preferred this petition under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking pre-arrest bail.

Inter alia contends that the genesis of the FIR in question is a matrimonial discord between the petitioner and respondent No.2; petitioner is willing to return the dowry articles/istridhan including gold articles in his possession to respondent No.2; petitioner is ready for an amicable settlement as well & petitioner is willing to join



investigation and cooperate therein in accordance with law. In order to buttress his arguments, learned counsel for the petitioner 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.

Notice of motion.

On asking of the Court, Mr. Adhiraj Singh Thind, AAG, Punjab, appears and accepts notice on behalf of respondent No.1-State.

Adjourned to 24.10.2024.

The petitioner is directed to appear before the Investigating Officer on 27.09.2024 at 11:00 A.M. in concerned Police Station and join investigation.

In the event of arrest, the petitioner shall be released on interim bail subject to his furnishing personal/surety bond(s) to the satisfaction of the Arresting

Officer/Investigating Officer. As and when further called by Investigating

Officer, the petitioner shall join the investigation. He shall abide by the condition(s) enumerated under Section 482(2) of Bharatiya Nagarik Suraksha Sanhita, 2023.”

Thereafter on 24.10.2024, the following order was passed :-

“Mr. Naveen Batra, Advocate has appeared and filed power of attorney on behalf of respondent No.2. The same is taken on record. Learned State counsel, on instructions from SI Chatwinder Singh, submits that the petitioner has joined the investigation, but is not co-operating therein.

Faced with this situation, learned counsel for the petitioner submits that the petitioner is willing to re-join investigation and co-operate therein in accordance with law.

The petitioner is directed to appear before the concerned Investigating Officer in the concerned police station on 29.10.2024 at 11 a.m., where he shall re-join investigation as also co-operate therein in accordance with law.



Adjourned to 07.11.2024.

Interim order to continue.”

3. Learned State counsel, on instructions from SI Chatwinder Singh has stated that pursuant to the order dated 23.09.2024, the petitioner has joined investigation on 24.10.2024 and had even brought some gold articles for submitting to the Investigating Officer/complainant but the complainant did not receive the same. Learned State counsel has further submitted that the State is not requiring the custodial interrogation of the petitioner on any other account except for effecting complete recovery of alleged dowry articles.

4. Learned counsel for the complainant has vehemently opposed the grant of anticipatory bail to the petitioner by arguing that the allegations made against the petitioner are serious in nature and hence anticipatory bail ought not to be granted to the petitioner. Learned counsel for the complainant has further iterated that since the entire dowry articles, especially the gold articles, have not been recovered & hence the petitioner ought not be extended the concession of anticipatory bail.

5. Keeping in view the entirety of facts and circumstances of the case, especially the factum of petitioner having joined investigation, State not requiring custodial interrogation of the petitioner except for effecting the dowry articles and the petitioner reflecting his bonafide by bringing forward some dowry articles (including gold articles for recovery), the present petition stands allowed and the interim order dated 23.09.2024 passed by this Court is made absolute, subject to the conditions as enumerated under Section 482(2) of BNSS, 2023.



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6. This order should not be treated as “blanket” order. It will not be read 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.
7. 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 482(2) of BNSS, 2023 or upon showing any other sufficient cause.
8. Needless to say that anything observed herein above shall not be construed to be an opinion on the merits of the case.

(SUMEET GOEL)
JUDGE

07.11.2024
P.Singh

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No