

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

204

CRM-M-53603-2023
Date of decision: 22.03.2024

HARMINDER SINGH

...PETITIONER

V/s

STATE OF PUNJAB

...RESPONDENT

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Ms. Puja Chopra, Advocate
for the petitioner.

Mr. Anup Singh, AAG, Punjab.

Mr. Rakeshinder Singh Sidhu, Advocate
for the 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.87 dated 26.09.2023, registered for offences punishable under Sections 406 and 498-A of the Indian Penal Code, 1860, at Police Station Women, District Patiala.

2. On 20.10.2023, the following order was passed:-

“This is a petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail to the petitioner in FIR No.87 dated 26.09.2023 under Sections 406, 498-A of the Indian Penal Code, 1860 registered at Police Station Women District Patiala (Annexure P-1).

Learned counsel for the petitioner would contend that the petitioner, who is the husband of the complainant, has filed a petition under Section 12 of the Hindu Marriage Act, 1955 for annulment of the marriage as the marriage was not consummated. Learned counsel would further contend that the present FIR is a counterblast to the said petition filed under

Section 12 of the Hindu Marriage Act, 1955. It is further the contention of learned counsel that earlier on 30.03.2023 the parties had entered into a compromise, however, the complainant backed out of the compromise. Learned counsel for the petitioner would further contend that the petitioner is willing to return all the istridhan articles as also wants to settle the matter.

On the oral request of learned counsel for the petitioner, the complainant - Manpreet Kaur daughter of Arvinderpal Singh resident of House No.221/8, Dogra Mohalla Patiala, Punjab - is impleaded as respondent No.2 in the petition. Registry to make the requisite correction in the memo of parties.

Notice of motion.

On the asking of the Court, Mr. Adhiraj Singh Thind, AAG Punjab accepts notice on behalf of respondent No.1-State. Let notice be issued to respondent No.2 returnable 16.01.2024. The petitioner is directed to bring a Demand Draft of Rs.30,000/- in the name of the complainant-respondent No.2 towards litigation expenses on the next date of hearing.

Meanwhile, the petitioner is directed to join investigation as and when called for. In the event of arrest, the petitioner shall be admitted to interim bail on furnishing personal bonds with adequate surety to the satisfaction of the Arresting Officer. The petitioner shall also abide by all the terms and conditions as specified in Section 438(2) of the Code of Criminal Procedure, 1973.”

3. Learned counsel for the petitioner has furnished to the learned counsel for the complainant a demand draft of Rs.30,000/- bearing No.344698 in terms of the interim order dated 20.10.2023 passed by this Court. A photocopy of the same be kept on record.

4. Learned State counsel, on instructions from ASI Narinder Kaur, has stated that pursuant to the order dated 20.10.2023, 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.

5. 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.

6. I have heard the learned counsel for the rival parties and have perused the paper book.

7. 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.”

8. 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.

9. In view of above, the petition is allowed and interim order dated 20.10.2023 passed by this Court is made absolute, subject to the conditions as enumerated under Section 438(2) Cr.P.C.

10. 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.

11. 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.

12. Needless to say that anything observed herein above shall not be construed to be an opinion on the merits of the case.

13. Pending application(s), if any, shall also stand disposed off.

(SUMEET GOEL)
JUDGE

March 22, 2024
jatin

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