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CRM-M No.51426 of 2024
Date of decision : 25.11.2024

State of PunjabRespondent

Present: Mr. Rahul Sharma-1, Advocate, for the petitioner

Mr. Anup Singh, AAG, Punjab

Mr. P.S. Kanwar, Advocate, for the complainant

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1. Present petition has been filed under Section 482 of Bharatiya Nagarik Suraksha Sanhita of 2023 for pre-arrest bail of the petitioner in case FIR No.217 dated 12.9.2024, under Sections 85 and 316(2) of Bharatiya Nyaya Sanhita of 2023, registered at Police Station Tanda, District Hoshiarpur.

2. On 18.10.2024, the following order was passed:-

‘Apprehending her arrest in FIR No. 217 dated 12.09.2024 registered for offences punishable under Sections 85 and 316(2) of BNS, 2023 at Police Station Tanda, District Hoshiarpur; the petitioner has preferred this petition under Section 482 of BNSS seeking pre-arrest bail.

Inter alia contends that petitioner is the mother-in-law of the complainant-wife, petitioner is aged about 69 years and is suffering from heart related disease, the petitioner is willing to return the entire dowry articles/Istridhan including gold articles in her possession; petitioner is



ready for an amicable settlement & the petitioner is willing to join investigation and cooperate therein. In order to buttress his arguments, learned counsel for the petitioner has relied upon the dicta of the judgements of the Hon'ble Supreme Court in the case of 'Md. Asfak Alam versus The State of Jharkhand and another' 2023(3) R.C.R. (Criminal) 754 and Arnesh Kumar versus State of Bihar (2014) 8 SCR 128.

Notice of motion.

On asking of the Court, Mr. Yuvraj Singh Tiwana, AAG, Punjab appears and accepts notice on behalf of the respondent-State.

Mr. Parminder Singh Kanwar, Advocate has filed vakalatnama for the complainant. The same be taken on record.

Adjourned to 25.11.2024.

The petitioner is directed to appear before the Investigating Officer on 22.10.2024 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 her 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. She shall abide by the condition(s) enumerated under Section 482(2) of BNSS, 2023.'

3. Learned State counsel (on instructions from ASI Jagdeep Singh) has stated that pursuant to the order dated 18.10.2024, 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 18.10.2024 passed by this Court is made absolute, subject to the conditions as enumerated under Section 482(2) of BNSS.

9. 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.

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 482(2) of BNSS, 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.

(SUMEET GOEL)
JUDGE

25.11.2024
Ashwani

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