

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

208

CRM-M No.55373 of 2023
Date of decision: 02.05.2024

JASVIR KAUR
Versus
.... Petitioner

STATE OF PUNJAB AND ANOTHER
.... Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present : Mr. S.P.S. Khaira, Advocate for the petitioner.

Mr. A.S. Samra, A.A.G., Punjab.

Mr. N.K. Manchanda, Advocate for respondent No.2.

MANISHA BATRA, J. (oral)

1. Through the instant petition, filed under Section 438 of Code of Criminal Procedure, 1973, the petitioner seeks anticipatory bail in case FIR No. 22, dated 25.08.2023, under Sections 406 and 498-A of IPC at Police Station NRI, District S.A.S. Nagar, Mohali.
2. Vide order dated 06.11.2023, passed by this Court, the petitioner was released on interim bail and was directed to join investigation. Order dated 06.11.2023, passed by this Court, reads as under:

“The present petition has been filed by the petitioner seeking grant of anticipatory bail in case bearing FIR No.22 dated 25.08.2023 registered under Sections 406 and 498-A of Indian Penal Code, 1860, at Police Station NRI, District SAS Nagar, Mohali, which has been got lodged on the basis of complaint filed by Gurwinder Kaur, daughter-in-law of the present petitioner, alleging that she got married with the son of the petitioner on 17.03.2019. It is alleged that soon after

the marriage, the petitioner (mother-in-law of the complainant) and other members of her family started harassing and torturing the complainant on account of unlawful demand of dowry as they were not satisfied with the dowry articles, which were given by the family of the complainant/respondent No.2 at the time of marriage. The complainant was subjected to beatings and several kinds of cruelty at the hands of her in-law's family. It is further alleged that on 30.03.2020 the complainant had been extended beatings by the petitioner on account of which she had sustained several injuries. The complainant alleged that she went to her village on the demise of her mother, however, her husband did not come to take her back. The matter was reported to the police, but subsequently with the intervention of the Panchayat, the complainant was brought back at her matrimonial home.

Learned counsel for the petitioner has submitted that the aforementioned FIR has been lodged by respondent No.2 on false and fabricated allegation, however, no demand of dowry was ever raised by the petitioner or her family members rather it was a simple marriage performed. It is further submitted that the petitioner is a senior citizen suffering from several age related ailments and is ready to join the investigation and her custodial interrogation is also not required as neither any recovery nor any loss has been effected from her.

Notice of motion.

On asking of the Court, Ms. Himani Arora, A.A.G., Punjab accepts notice on behalf of respondent No.1-State, who seeks time to file status report.

Adjourned to 20.02.2024.

In the meantime, the petitioner is directed to appear before the Investigating/Arresting Officer to join investigation within one week or as and when required thereafter. In the event of her arrest, the Investigating/Arresting Officer shall release the petitioner on interim

bail on furnishing personal/surety bonds subject to his/her satisfaction. The petitioner shall also abide by the conditions as envisaged under Section 438(2) Cr.P.C.

SI Parminder Kaur, who is present in the Court, is intimated accordingly. The investigating Officer shall join her in the investigation on that date and on any other subsequent date as and when required till the next date of hearing.”

3. Learned State counsel has submitted that though the petitioner has joined the investigation on 04.03.2024, but some dowry articles could not be recovered at the instance of the petitioner and the petitioner is not cooperating with the investigating agency to that extent. However, he has not submitted as to in what manner, the cooperation had not been extended by the petitioner. Mere non recovery of some disputed dowry articles cannot by itself be a ground for denial of bail as has also been observed by the Delhi High Court in case titled as ‘*Jagdish Thakkar vs. State of Delhi*’, 1992 (3) CCR 2764’ and in case titled as ‘*Pooran Singh vs. State of Delhi*’, 2022(1) RCR (Criminal) 503.

4. In view of the said facts, without commenting on the merits of the case, the present petition is allowed and the order dated 06.11.2023 granting interim bail to the petitioner is made absolute, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure.

(MANISHA BATRA)
JUDGE

02.05.2024
Jyoti-IV

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