



CRM-M-51865 of 2024 1

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

220 **CRM-M-51865 of 2024**
DATE OF DECISION :- 03.12.2024

Raj Kumar Dhawan and another **...Petitioners**

Versus

State of Punjab **...Respondent**

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. Abinashi Singh, Advocate for the petitioners.
Mr. Anup Singh, AAG, Punjab.
Mr. Abhishek Sharma, Advocate for the complainant.

SUMEET GOEL, J. (Oral)

1. This petition has been filed under Section 482 of BNSS, 2023 for grant of anticipatory bail to the petitioners in FIR No.50 dated 28.4.2024, registered for offences punishable under Sections 498-A of IPC (Sections 406 and 120-B of IPC added later on) at Police Station NRI, Ludhiana City, District Ludhiana.

2. On 28.10.2024, the following order was passed:-

“Power of attorneys filed on behalf of the petitioners as also on behalf of the complainant today in Court. The same be kept on record.

Apprehending his arrest in FIR No.50 dated 28.4.2024, registered for offences punishable under Sections 498-A of IPC (Sections 406 and 120-B of IPC added later on) at Police Station NRI, Ludhiana City, District Ludhiana; the petitioners



have preferred this petition under Section 438 Cr.P.C./482 of BNSS, 2023, seeking pre-arrest bail.

Inter alia contends that the genesis of the FIR in question is a matrimonial discord between the petitioners and the complainant, who is the wife of their son, the petitioners are willing to enter into an amicable settlement as well, the petitioners are willing to return the dowry articles including the gold articles in their possession & the petitioners are willing to join investigation and cooperate therein in accordance with law.

Status report by way of affidavit of Harjinder Singh, PPS, Deputy Superintendent of Police, NRI Wing, Ludhiana, has been filed in Court today. The same be kept on record. Copy thereof has been furnished to learned counsel for the petitioner as also to learned counsel for respondent no.2.

Learned State counsel has raised submissions in tandem with the said reply.

At this state, learned counsel for the complainant has vehemently opposed the grant of interim anticipatory bail to the petitioners.

Adjourned to 27.11.2024.

The petitioners are directed to appear before the Investigating Officer on 5.11.2024 at 11:00 A.M. in concerned Police Station and join investigation. In the event of arrest, the petitioners shall be released on interim bail subject to their furnishing personal/surety bond(s) to the satisfaction of the Arresting Officer/Investigating Officer. As and when further called by Investigating Officer, the petitioners shall join the investigation. They shall abide by the condition(s) enumerated under Section 482(2) of Bharatiya Nagarik Suraksha Sanhita, 2023.”

On 27.11.2024, the following order was passed:-

“Learned counsel appearing for the petitioners, in order to show



the bona fide intent on the part of the petitioners has handed over a demand draft of Rs.1 lac bearing No.056202 dated 01.11.2024 to the learned counsel for the complainant for onward transmission to the complainant. A photocopy thereof be kept on record.

The petitioners are directed to re-join investigation before the concerned Investigating Officer in the concerned police station on 29.11.2024 at 11 a.m. and co-operate therein in accordance with law.

Adjourned to 03.12.2024.

Interim order to continue.”

3. Learned State counsel, on instructions from ASI Gurmail Singh, has stated that the petitioners have joined investigation in terms of the interims orders passed earlier by this Court and are no longer required for custodial interrogation. Learned State counsel has submitted that the petitioners had brought forward some gold articles to be returned to the complainant but the complainant refused to accept the same.

4. Learned counsel for the petitioners has submitted that no dowry articles/Istridhan are in possession of the petitioners and, in fact, the entire dowry articles/Istridhan 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 principles 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/Istridhan in entirety thereof cannot, by itself, be a cause for rejection of the present plea for anticipatory bail by the petitioners especially when the State does not require custodial interrogation of petitioners on any other count except for effecting recovery of remaining dowry articles/Istridhan. The aspect, as to what all are the dowry articles/Istridhan in question in the present case & whether the entire dowry articles have been recovered 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 petitioners 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 petitioners.



8. In view of above, the petition is allowed and interim order dated 28.10.2024 passed by this Court is made absolute, subject to the conditions as enumerated under Section 482(2) of BNSS, 2023.
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 petitioners violate any condition stipulated under Section 482(2) of BNSS, 2023 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

03.12.2024
P.Singh

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