

208

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-55385-2023 (O&M)

Date of Decision: 22.02.2024

Mukesh Kumar @ Mukesh Kochhar

.. Petitioner

Vs.

State of Haryana

..Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Pushp Jain, Advocate for the petitioner.

Ms. Ankita Ahuja, AAG, Haryana.

...

SUMEET GOEL, J. (Oral)

1. This petition has been filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in FIR bearing No.181 dated 30.08.2023 registered at Police Station Babain, District Kurukshetra under Sections 323, 406, 498-A & 506 IPC.
2. On 06.11.2023, the following order was passed:

The petitioner herein seeks the relief of pre-arrest/anticipatory bail in the criminal case arisen out of the FIR bearing No.181 dated 30.08.2023 registered at Police Station Babain, District Kurukshetra under Sections 323, 406, 498-A & 506 IPC.

Learned counsel for the petitioner, inter-alia, contends that the petitioner has been got falsely implicated in the criminal case under reference and in fact, he had never ever subjected the complainant-wife to cruelty nor demanded any dowry and rather, it was the complainant-wife, who had been pressurizing him (petitioner) to pay the price of the Flat also purchased by her and to reside with her there and he had purchased one i20 Car for her at her insistence and moreover, the petitioner is ready and willing to join the investigation as and when so required by the Investigating Agency and is also not involved in any other criminal case.

Notice of motion.

Mr. Apoorv Garg, learned Senior Deputy Advocate General, Haryana, who has appeared in this case in pursuance of the copy of the instant petition having been sent to the respondent-State in advance, accepts the notice and he seeks time to get proper and complete instructions qua the present matter from the quarter concerned and if deemed necessary, then to file the Status-Report also.

Adjourned to 22.02.2024.

Meanwhile, the petitioner shall join in the investigation on 20.11.2023 at 10:00 AM sharp and if there need be, even thereafter and in the event of his arrest, he shall be released on interim bail subject to his furnishing the requisite personal and surety bonds to the satisfaction of the Arresting/Investigating Officer and he shall also strictly abide by all the conditions as laid down in Section 438(2) Cr.P.C.”

3. Learned State counsel, on instructions from L/HC Babli has stated that pursuant to the order dated 06.11.2023 the petitioner has joined investigation and is no longer required for custodial interrogation. However, learned State counsel has 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/Istridhan as alleged are in possession of the petitioner.

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 petitioner especially when the State does not require custodial interrogation of petitioner 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 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 06.11.2023 passed by this Court is made absolute, subject to the conditions as enumerated under Section 438(2) Cr.P.C.

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 petitioner violates any condition stipulated under Section 438(2) Cr.P.C., 1973 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.
12.

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

22.02.2024

(SUMEET GOEL)

JUDGE

Jasmine Kaur

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No