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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-59875-2022 (O&M)

Date of Decision: 16.02.2024

AMIT SHARMA

.. Petitioner

Vs.

STATE OF PUNJAB & ORS

..Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Gulzar Mohammad, Advocate for the petitioner.

Mr. Adhiraj Singh Thind, AAG, Punjab.

Respondent No.2-Neha Sharma in person identified
by ASI Harnek Singh.

...

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 No.117 dated 16.06.2019 registered under Sections 406, 498-A, 323, 506 of Indian Penal Code, 1860 at Police Station Khanna City-II, Police District Khanna, District Ludhiana.
2. On 22.12.2022, the following order was passed:

“Instant petition has been filed under Section 438 Cr.P.C. praying for grant of anticipatory bail to the petitioner in case FIR No.117, dated 16.06.2019, under Sections 406, 498-A, 323, 506 IPC, registered at Police Station Khanna, City-II, Police District Khanna, District Ludhiana. It has been contended by counsel for the petitioner that petitioner before this Court is the husband of daughter of the complainant.

It has been submitted that marriage of the petitioner was solemnized with daughter of the complainant on 22.06.2014, however, on account of temperamental differences, there arose a matrimonial discord, which was totally on account of normal wear and tear of the matrimonial life. He submits that thereafter the complainant filed the present FIR levelling allegations of harassment caused to his daughter on

*account of demand of dowry etc., which are totally false and frivolous. He submits that petitioner has been implicated by the complainant only in order to harass him and his other family members. He further submits that petitioner is ready to settle the dispute amicably if the matter is referred to mediation Centre. He relies upon **Arnesh Kumar vs State of Bihar and another**, 2014(3) SCC (Cr.) 449 and submits that in view of the aforementioned facts, no case for custodial interrogation is made out, however, he is ready to join the investigation and abide by all the terms and conditions of the anticipatory bail if this Court considers his request for granting the same.*

Counsel for the petitioner undertakes to implead the complainant and daughter as party respondent Nos.2 and 3 in the petition and file amended memo of parties within a week from today.

Issue notice of motion for 18.04.2023.

On the asking of the Court, Ms.Ishama Randhawa, Additional Advocate General, Punjab, who is present in Court, accepts notice on behalf of the respondent-State.

On filing of amended memo of parties by counsel for the petitioner, complainant and his daughter be served for the date fixed.

Petitioner is also directed to pay Rs.25,000/- as litigation expenses to daughter of the complainant within one month from today.

In the meanwhile, in the event of arrest, the petitioner shall be released on interim bail subject to the satisfaction of the Arresting Officer/Investigating Officer. The petitioner shall join investigation before the Investigating Agency/Officer. He shall abide by the following conditions as envisaged under Section 438(2) Cr.P.C.:-

“(i) That the petitioner shall make himself available for interrogation by a police officer as and when required to do so;

(ii) That the petitioner shall not directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

(iii) That the petitioner shall not leave India without prior permission of the Court.”

State is directed to file status report on or before the next date of hearing.”

3. Learned State counsel, on instructions from ASI Harnek Singh,

has stated that pursuant to the order dated 22.12.2022, the petitioner has

joined investigation and is no longer required for custodial interrogation.

However, learned State counsel as also 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/Istridhan are in possession of the petitioner and, in fact, the entire dowry articles/Istridhan are 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 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 22.12.2022 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.

16.02.2024

Jasmine Kaur

(SUMEET GOEL)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No