

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

203

CRM-M-58926-2023

Date of Decision: 12.03.2024

Himanshu Verma

.... Petitioner

Versus

State of UT Chandigarh and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Ms. Deepika, Advocate for the petitioner.

Ms. Vasundhara Dalal Anand, Addl. PP, UT, Chandigarh.

Respondent No.2 in person.

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.70 dated 04.11.2023, registered for offences under Sections 406, 498-A and 323 of the IPC, at Police Station Women, Sector 17, Chandigarh.

2. On 22.11.2023, the following order was passed:-

"1. Petitioner is seeking anticipatory bail in case bearing FIR No. 70 dated 04.11.2023 under Sections 406, 498-A, 323 IPC, registered at Police Station Women, Sector 17, Chandigarh.

2. Learned counsel for the petitioner contends that the marriage of the petitioner was solemnized with the complainant on 17.11.2020 but no child has been born from the wedlock. The allegations were levelled against the petitioner and his parents. Primarily, the allegations with regard to abuses were against the mother of the petitioner but the FIR has been registered only against the petitioner. At the earlier instance, an amicable settlement was effected between the parties but despite that the petitioner and the complainant could not pull on well. The FIR has been registered on the basis of the false allegations and is the result of marital discord between the parties. The petitioner is ready and willing to amicably settle the matrimonial dispute.

3. *On the oral request, complainant i.e. Anjali Verma d/o Raj Kumar Verma, r/o 555/2, Milk Conony Dhanas, Chandigarh is impleaded as respondent No.2.*
4. *Registry is directed to make necessary entry in the memo of parties.*
5. *Notice of motion.*
6. *Ms. Vasundhara Dalal Anand, Addl. P.P. U.T. Chandigarh accepts notice on behalf of the State and submits that besides that there are allegations to the effect that the complainant was wrongly confined and injuries were inflicted upon her. However, it has not been disputed that the offence under Section 346 IPC has not been invoked and the injuries fall under Section 323 IPC.*
7. *The petitioner and the complainant/respondent No.2 are directed to appear before the Mediation and Conciliation Center of this Court on 06.12.2023. On appearance of the complainant before the Mediator, the petitioner shall pay a sum of Rs. 30,000/- to facilitate her presence and participation in the mediation proceedings.*
8. *Report of the Mediator be awaited for 05.01.2024.*
9. *Meanwhile, the petitioner shall join the investigation and would come present as and when called for and in the event of arrest, the petitioner shall be admitted to interim bail on his furnishing personal and surety bonds to the satisfaction of Arresting/Investigating Officer. The petitioner shall also abide by the conditions as specified under Section 438(2) Cr.P.C”.*

3. Learned State counsel, on instructions from investigating officer, has stated that pursuant to the order dated 22.11.2023, the petitioner has joined investigation and is no longer required for custodial interrogation. However, learned State counsel as also 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/Istridhan are in possession of the petitioner 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 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 22.11.2023 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.

12.03.2024
D.Bansal

(SUMEET GOEL)
JUDGE

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