

CRM-M-62531-2023

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

302-1

CRM-M-62531-2023

Date of decision:06.03.2024

Savinder Singh
State of Punjab and another

V/s

....Petitioner
....Respondents

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Anupam Bhardwaj, Advocate for the petitioner.
Mr. Anup Singh AAG Punjab.
Mr. U.K Agnihotri, Advocate for respondent No.2-complainant.

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.107 dated 17.11.2023 (Annexure P-1), registered for offences under Sections 498-A, 313, 406, 506 of the Indian Penal Code, 1860, at Police Station Fatehgarh Churian, Batala, District Gurdaspur.

2. On 14.12.2023, the following order was passed:-

“This is a petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail to the petitioner in FIR No.107 dated 17.11.2023 under Sections 498A, 313, 406, 506 of the Indian Penal Code, 1860 (IPC) registered at Police Station Fatehgarh Churian, Batala, District Gurdaspur.

Learned counsel for the petitioner would contend that there is no medical to support the allegations under Section 313 IPC. It is further the contention that the son of the petitioner and the complainant had a love marriage and they had infact sought protection from this Court by filing CRM-M-15212-2018, which was disposed off vide order dated 17.04.2018, Thereafter, due to differences, the couple decided to part ways and preferred a petition under Section 13-B of the Hindu Marriage Act, 1955. In the said petition the statements of the parties were recorded at the stage of first motion. Copies of the same have been appended with the petition as Annexure P-4. The learned counsel has further contended that as per the statements the matter regarding maintenance, allowance, alimony and belongings, of past, present and future, all stood settled and

the complainant made a statement that the dowry articles had been exchanged and nothing was due against each other. Thereafter, the complainant did not come forward for getting her second motion statement recorded and the case was accordingly dismissed.

On the oral request of learned counsel for the petitioner, the complainant is impleaded as respondent No.2 in the present petition. Registry to carry out the necessary changes in the memo of parties.

Notice of motion.

Mr. Adhiraj Singh Thind, AAG Punjab accepts notice on behalf of respondent-State of Punjab. Mr. U.K. Agnihotri, Advocate puts in appearance for respondent No.2/complainant and accepts notice on her behalf.

The petitioner shall bring a bank draft for Rs.30,000/- in the name of the respondent-wife towards litigation expenses on the next date of hearing.

List on 06.03.2024.

Meanwhile, the petitioner is directed to join investigation as and when called for. In the event of arrest, the petitioner shall be admitted to interim bail on furnishing personal bonds with adequate surety to the satisfaction of the Arresting Officer. The petitioner shall also abide by all the terms and conditions as specified in Section 438(2) of the Code of Criminal Procedure, 1973.”

3. In terms of the aforesaid order, a demand draft for a sum of Rs.30,000/- has been handed-over by learned counsel for the petitioner to learned counsel for respondent No.2-complainant in Court today.

4. Learned State counsel, on instructions from ASI Jagtar Singh, has stated that pursuant to the order dated 14.12.2023, the petitioner has joined investigation and is no longer required for custodial interrogation. However, learned State counsel as also the learned counsel for the complainant have submitted that no recovery of dowry articles has been effected.

5. 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.

6. I have heard the learned counsel for the rival parties and have perused the paper book.

7. 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.”

8. 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.

9. In view of above, the petition is allowed and interim order dated 14.12.2023 passed by this Court are made absolute, subject to the conditions as enumerated under Section 438(2) Cr.P.C.

10. 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.

11. 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.

12. Needless to say that anything observed herein above shall not be construed to be an opinion on the merits of the case.

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

(SUMEET GOEL)
JUDGE

March 06, 2024
Ajay

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