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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Reserved on : 21.01.2025

Date of Pronouncement : 29.01.2025

Vaibhav Kumar

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Rakesh Nehra, Sr. Advocate with
Mr. Vikalp Hooda, Advocate,
Mr. Reetesh Kumar, Advocate and
Mr. Arjun Singh, Advocate
for the petitioner

Mr. R.S. Thind, DAG Punjab

Mr. Sourabh Singla, Advocate
for the complainant

KIRTI SINGH, J.

1. Apprehending arrest in FIR No.34 dated 22.04.2023, under Sections 406, 498-A IPC registered at Police Station – PS Women, Patiala, District Patiala, the petitioner has preferred this petition under Section 438 Cr.P.C. for grant of anticipatory bail.
2. Vide order dated 12.06.2023, the petitioner was granted the concession of interim bail and was directed to appear before the Investigating Officer.
3. Shorn of details, the allegations levelled are that it was only after the



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complainant's family acceded to the condition of her in-laws demanding Rs. 10 lacs, was the marriage solemnized on 28.11.2017, albeit with great pomp and show. Numerous dowry articles were exchanged, however, after a few days of marriage, the accused persons started pressurizing her for a car as also cash to the tune of Rs. 10 lacs. She was allegedly subjected to harassment on various instances for the fulfillment of their whims, and even the birth of their daughter did not pacify the situation. Ultimately, the said amount was given to the accused in installments over the period between March 2018 to May 2020, whereafter it was said by the petitioner-accused in panchayat that he will take good care of the complainant and the child. Nonetheless after a few days their demand for a car resurfaced, to which the complainant flatly refused and as a consequence of the same, she and her daughter were ousted from the matrimonial home.

4. Learned senior counsel for the petitioner *inter alia* submits that the petitioner has been falsely implicated in the present case. The entire family members of the petitioner i.e. father, mother, sister and brother-in-law of the petitioner were roped in the present FIR. However, subsequently they were declared innocent by the police and now the petitioner has been falsely nominated in the present FIR. It has further been argued that non-recovery of dowry articles can not be a ground to decline the plea for grant of anticipatory bail to the husband or his relatives. Reliance is placed upon orders passed in ***Varun Sharma vs. State of Punjab and another, 2024(2) RCR(Criminal) 151, CRM-M-42295-2024 titled as Nandkumar Parsram Ailani and another vs. State of Punjab and another*** decided on 16.10.2024, ***CRM-M-1964-2020 titled as Davinder Singh vs. State of Punjab*** decided on 17.03.2023, ***CRM-M-34855-2022 titled as Kamaldeep Bansal vs. State of Punjab and another*** decided on 15.05.2024 and ***Pooran Singh vs.***



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State of Delhi, 2022(1) RCR(Criminal) 503.

5. *Per contra*, learned State counsel on instructions submits that the petitioner has joined the investigation, however, only partial recovery of dowry articles has been effected and remaining dowry articles are yet to be recovered.

6. Heard the rival submissions made by learned counsel for the parties and perused the record.

7. Hon'ble the Supreme Court in the case of ***Arnesh Kumar v. State of Bihar and another 2014 (3) RCR (Criminal) 527***, held as under:

5. There is phenomenal increase in matrimonial disputes in recent years. The Institution of marriage is greatly revered in this country. Section 498A of the IPC was introduced with avowed object to combat the menace of harassment to a woman at the hands of her husband and his relatives. The fact that Section 498A is a cognizable and non-bailable offence has lent it a dubious place of pride amongst the provisions that are used as weapons rather than shield by disgruntled wives. The simplest way to harass is to get the husband and his relatives arrested under this provision. In a quite number of cases, bed-ridden grand-fathers and grand-mothers of the husbands, their sisters living abroad for decades are arrested. "Crime in India 2012 Statistics published by National Crime Records Bureau, Ministry of Home Affairs shows arrest of 1.97,762 persons all over India during the year 2012 for offence under Section 498A of the IPC, 9.4% more than the year 2011. Nearly a quarter of those arrested under this provision in 2012 were women i.e. 47,951 which depicts that mothers and sisters of the husbands were liberally included in their arrest net. Its share is 6% out of the total persons arrested under the crimes committed under Indian Penal Code It accounts for 15% of total crimes committed under different sections of penal code, more than any other crimes excepting theft and hurt. The rate of charge-sheeting in cases under Section 498A, IPC is as high as



93.6%, while the conviction rate is only 15%, which is lowest across all heads. As many as 3,72,706 cases are pending trial of which on current estimate, nearly 3,17,000 are likely to result in acquittal.

6. Arrest brings humiliation, curtails freedom and cast scars forever Law makers know it so also the police. There is a battle between the law makers and the police and it seems that police has not learnt its lesson; the lesson implicit and embodied in the Cr.PC. It has not come out of its colonial image despite six decades of independence, it is largely considered as a tool of harassment, oppression and surely not considered a friend of public. The need for caution in exercising the drastic power of arrest has been emphasized time and again by Courts but has not yielded desired result. Power to arrest greatly contributes to its arrogance so also the failure of the Magistracy to check it. Not only this, the power of arrest is one of the lucrative sources of police corruption. The attitude to arrest first and then proceed with the rest is despicable. It has become a handy tool to the police officers who lack sensitivity or act with oblique motive.

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 petitioners especially when the petitioner joined the investigation. The aspect, as to what all are the dowry articles/Istridhan in question in the present case and whether the entire dowry articles have been recovered or not, shall be essentially gone into during the course of trial. It is also not in dispute that the concession of interim bail has not been misused.

9. Having considered the aforesaid facts and circumstances, the petition is allowed. Order dated 12.06.2023 passed by this Court, is hereby made absolute.

10. This order should not be treated as "blanket" order. It will not be read granting the petitioners indefinite protection from arrest. It shall be confined to the



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FIR mentioned *ibid* and will not operate in respect of any other incident that involves commission of an offence.

11. This order does not in any manner limit or restrict the rights or duties of the police or investigating agency to investigate into the charges against the petitioner.

12. The accused/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 or her from disclosing such facts to the Court or to any police officer.

13. The accused/petitioner shall not leave India without prior permission of the Court.

14. The accused/petitioner shall join the investigation as and when called by the police.

15. It will be open to the police or the investigating agency to move to this Court for a direction under Section 439(2) of the Code of Criminal Procedure, 1973 (erstwhile Section 483(3) of BNSS, 2023) to arrest the accused, in the event of violation of any term, such as absconding, non-cooperating during investigation, evasion, intimidation or inducement to witnesses with a view to influence outcome of the investigation or trial.

16. Pending application(s), if any, also stands disposed of accordingly.

(KIRTI SINGH)
JUDGE

29.01.2025

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Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No