

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-39227 of 2014 (O&M).

Decided on:-September 04, 2015.

Saurabh Nayyar

.....Petitioner.

Versus

State of Haryana and another

.....Respondents.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Argued by:- Dr. Anmol Rattan Sidhu, Senior Advocate with
Mr. Rajiv Malhotra, Advocate and
Mr. Pratham Sethi, Advocate
for the petitioner.

Mr. Kapil Aggarwal, Addl. A.G., Haryana.

Mr. H.S. Bhullar, Advocate
for respondent No.2.

HARI PAL VERMA, J.

Prayer in this petition filed under Section 438 Cr.PC is for grant of anticipatory bail to the petitioner in case FIR No.238 dated 3.6.2014 under Sections 406/498-A/ 120-B IPC, registered at Police Station Sector 5, District Panchkula.

This Court vide order dated November 18, 2014 had stayed the arrest of the petitioner.

Learned senior counsel for the petitioner has submitted that no recovery is required to be effected from the petitioner and the dowry articles have already been recovered as detailed in Annexure P-3. He has further submitted that the petitioner is ready to cooperate with the investigating agency and to keep his wife and son with him. He has relied upon the judgments of Hon'ble Supreme Court in **2010 (4) RCR (Criminal) 45** titled as ***Preeti Gupta and another Versus State of Jharkhand and another*** and **2014(3) RCR (Criminal) 527** titled as ***Arnesh Kumar Versus State of Bihar and another***.

On the other hand, learned counsel for the complainant has opposed the anticipatory bail on the ground that the complainant has met with extreme cruelty and harassment at the hands of the petitioner and his family members. As regards recovery of dowry articles, he has submitted that only partial recovery has been effected. He has further submitted that in case the petitioner is allowed the concession of anticipatory bail, there is possibility that he may leave the country jeopardising the trial. In support of his contentions, he has relied upon the judgment of Hon'ble Supreme Court in **2014(3) RCR (Criminal) 853** titled as ***Mayank Pathak Versus State (Govt. of NCT of Delhi) and another*** and has submitted that the present petition deserves to be rejected.

Learned counsel for the State joins with the arguments of learned counsel for the complainant.

I have heard learned counsel for the parties.

As per the petitioner, all the dowry articles have already been handed over to the complainant whereas the only ground on which learned counsel for the complainant and the State have opposed the grant of anticipatory bail is that certain dowry articles are still to be recovered. The matter was even referred to the Mediation and Conciliation Centre of this Court but the parties could not arrive at some amicable settlement.

Without adverting to the merits of the case and considering the fact that the dowry articles as referred in Annexure P-3 have already been recovered and the proceedings under Section 438 Cr.PC are not the recovery proceedings, as well as in view of the totality of the above facts and circumstances of the case, it appears that custodial interrogation of the petitioner is not required. As such, the present petition is allowed and the interim relief granted to the petitioner vide order dated 18.11.2014 of this Court, is made absolute. However, the petitioner shall join the investigation as and when directed by the investigating agency and shall abide by the following terms and conditions as laid down under Section 438(2) of the Code of Criminal Procedure:

- (i) *That he shall make himself available for interrogation by a police officer as and when required;*
- (ii) *That he 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; and,*
- (iii) *That he shall not leave India without the previous permission of the Court.*

It is made clear that the observations made hereinabove shall not be construed as reflection of any opinion on the merits of the main case and the trial Court shall decide the case on the basis of availability of evidence.

September 04, 2015
'Yag Dutt'

(HARI PAL VERMA)
JUDGE