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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **BAIL APPLN. 1457/2016**

TITU CHADHA

..... Petitioner

Through: Mr. Prashant Mendiratta, Ms. Poonam
Mendiratta & Mr. Harshvardhan
Pandey, Advocates.

versus

STATE (NCT OF DELHI)

..... Respondent

Through: Mr. Mukesh Kumar, APP along with
SI Ramphal Singh, PS-Tilak Nagar,
for the State.
Mr. Nitesh Kumar Singh, Mr. Rajiv &
Ms. Neha, Advocates for the
complainant.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

ORDER

29.11.2016

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The petitioner has preferred the present bail application to seek anticipatory bail under Section 438 Cr.P.C. in case FIR No.1038/2014 registered under Section 498A/ 406/ 34 IPC at PS – Tilak Nagar, New Delhi.

I have heard learned counsel for the petitioner, learned APP as well as learned counsel for the complainant.

The submission of learned counsel for the petitioner is that even on a

reading of the FIR in question the claim of the complainant is that a sum of Rs.15 Lakhs had been spent by her parents in the marriage, which included amount of Rs.3 Lakhs towards jewellery. Learned counsel submits that the petitioner is not possessed of any jewellery of the complainant. He has pointed out that several dowry articles have already been returned to the complainant in the presence of the I.O. and in the said list while acknowledging receipt of several dowry articles the complainant has claimed that five jewellery articles have not yet been returned. Learned counsel submits that the present case cannot be turned into a recovery proceeding and on that ground, the petitioner cannot be denied anticipatory bail, if he is otherwise entitled to the same.

In the present case, the petitioner has, to show his bona fide, already deposited an amount of Rs.1,50,000/- in this Court to secure the claim of the complainant in case eventually it is established that dowry articles, including jewellery of the complainant, have not been returned by the petitioner accused. It is well-settled that criminal proceedings cannot be turned into recovery proceedings. It remains to be tried or adjudicated as to whether, or not, the articles claimed by the complainant indeed existed, and also whether the said articles, even if they exist, were left by the complainant at her matrimonial home and are in the custody of the petitioner. The valuation of the said articles would also be an issue that would be gone into by the Trial Court.

Looking to the nature of the allegations made in the FIR, the petition is allowed. In case of his arrest, the petitioner shall be released on bail upon his furnishing personal bond with one surety in the sum of Rs.20,000/- to the satisfaction of the arresting officer. This is subject to the condition that he

shall join the investigation as and when called for. He shall provide his mobile phone number to the I.O., which shall not be changed without prior intimation to the Court and shall be kept in working condition at all times. The petitioner shall not contact the complainant or any of the other witnesses. He shall not intimidate or coerce them or tamper with the evidence in the matter.

The amount deposited in this Court shall remain in fixed deposit. Its disbursal shall be governed by the orders that may be passed by a competent Court in future.

Dasti.

VIPIN SANGHI, J

NOVEMBER 29, 2016

B.S. Rohella