

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

Criminal Misc. No.M- 11938 of 2017(O&M)

Date of Decision: February 16 , 2018.

Mandeep Kumar PETITIONER (s)

Versus

State of Haryana RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Aditya Sanghi, Advocate
for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

Mr. H.S.Jaswal, Advocate
for the complainant.

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

LISA GILL, J.

Prayer in this petition is for grant of anticipatory bail to the petitioner in FIR No.53 dated 08.03.2017 under Sections 323/406/498A/506/377/34 IPC (Section 377 IPC deleted subsequently), registered at Police Station City Mandi Dabwali, District Sirsa.

It is submitted that the petitioner has been falsely implicated in this case. In fact, the complainant levelled allegations against all the family members in an omnibus manner. However, the said allegations have been found incorrect

qua all other accused and it is only the present petitioner who is being proceeded against. Learned counsel for the petitioner vehemently argues that the basic bone of contention was that the petitioner's mother is suffering from cancer and the complainant did not wish to live in the joint family as she would have to take care of the petitioner's mother. It is further submitted that in March 2016, the petitioner took a separate residence and started living with the complainant and the minor children. Protest was thereafter raised by the complainant when the petitioner would make efforts to look after the welfare and well-being of his mother. The petitioner, it is submitted, could not abdicate his duty towards his mother as his father had expired. It is submitted that a theft had occurred in the petitioner's house in the year 2013 in which a number of gold articles including those belonging to the complainant had been stolen. Reference is made to FIR No.259 dated 03.10.2013 under Sections 454/380 IPC, Police Station Sirsa Sadar (Annexure P4). The petitioner, it is submitted, is regularly paying the amount of maintenance assessed in the proceedings under Section 125 Cr.P.C. and he undertakes to do the same regularly without any default. It is submitted that the petitioner has joined investigation and he undertakes to face the proceedings and not misuse the concession of anticipatory bail, if afforded to him. Therefore, it is prayed that this petition be allowed.

It is noticed that this matter was placed before the Mediation and Conciliation Centre of this Court, but mediation failed. Thereafter, an effort was again made to amicably resolve the entire dispute. The parties at one point of time agreed to part ways. The petitioner agreed to transfer his share in the agricultural land in the name of two minor children with possession of the said

land to the complainant-wife. It was further undertaken that the petitioner would hand over any of the dowry articles which may still be lying with him (as it was stated that recovery has already been effected) alongwith an additional sum of ₹65,000/-. However, the complainant thereafter changed her mind and did not wish for the said settlement. This position is duly reflected in order dated 01.11.2017 passed in this petition.

Learned counsel for the complainant has opposed this petition while submitting that recovery of the gold articles is yet to be effected. However, it is not denied that an effort was made for an amicable resolution of the dispute and the offer by the petitioner as noted above was indeed made. However, the complainant does not wish to part ways with the petitioner, therefore, she is not amenable for the same. It is further not denied that the amount of maintenance assessed in the proceedings under Section 125 Cr.P.C. is being deposited by the petitioner regularly.

Learned counsel for the State, on instructions from SI Om Parkash, verifies that the petitioner has joined investigation and is not involved in any other criminal case. It is informed that some of the recoveries have been effected, though gold articles are yet to be recovered.

It has been held in **Prit Pal Singh v. State of Punjab and another, 2014 (5) RCR (Criminal) 771** to say that non-recovery of certain articles by itself cannot be a ground for not affording the concession of anticipatory bail to the petitioner.

There are no allegations on behalf of the State that the petitioner is likely to abscond or that he is likely to dissuade the witnesses from deposing

true facts before the Court, if released on bail.

Keeping in view the facts and circumstances as above but without commenting upon or expressing any opinion on the merits of the case, this petition is allowed. Consequently, order dated 18.04.2017 is made absolute.

It is clarified that none of the observations made hereinabove shall be construed to be a reflection on the merits of the case. The same are solely confined for the purpose of decision of the present petition.

February 16 , 2018.
'om'

(LISA GILL)
JUDGE

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