

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

Crl. Misc. M-17394 of 2017 (O&M)

Date of Decision: August 28, 2018

Kuldeep Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. S.S. Goraya, Advocate
for the petitioner.

Ms. Rajni Gupta, Senior DAG Punjab.

Mr. Sunil Agnihotri, Advocate
for complainant/respondent No.2.

JAISHREE THAKUR, J. (Oral)

The instant petition has been filed under Section 438 of Cr.P.C., for grant of anticipatory bail to the petitioner in FIR No.161 dated 05.11.2016, under Sections 406, 498-A of the Indian Penal Code, registered at Police Station Dasuya, District Hoshiarpur.

By an order dated 26.05.2017, the petitioner herein had been directed to join the investigation as well as to appear before the Mediation and Conciliation Centre of this court.

It appears that the mediation process between the parties has failed. This court too has tried to mediate between the parties, but it appears that conciliation between them in any manner is not possible. The petitioner has handed over the FD receipts of the pass book amounting to ₹ 5 lacs to

the complainant (these FDRs are in the name of the complainant herself, which are going to mature in April/May 2019) along with pass book. The petitioner has also handed over the passport of the minor child.

Learned counsel for complainant/respondent No.2 submits that as on date, neither there has been recovery of the gold or other articles nor has her passport been handed over to her, which fact is denied by counsel for the petitioner.

Learned counsel appearing on behalf of respondent-State, on instructions from Investigating Officer also submits that gold and other items are yet to be recovered.

I have heard learned counsel for the parties.

There are plethora of judgments to the effect that bail should not be denied only on account of the fact that recoveries have not been made. Merely because recoveries of part of *Istridhan* are yet to be made, this court is not inclined to reject the petition. Denial of bail in normal circumstances cannot be used as a tool to effect recoveries

In view of the fact that the petitioner has joined the investigation, at this stage, without commenting on the merits of the case, the petition is allowed and order dated 26.05.2017 granting interim bail to the petitioner is made absolute subject to the conditions laid down in Section 438 Sub Section 2 Clauses (i)(ii) and (iii) of the Code of Criminal Procedure.

Before parting with this order, it is brought to the notice of this court that the petitioner herein is evading summons of the proceedings initiated under Section 125 Cr.P.C., while contending that the complainant

herein is looking after herself and two minor children and does not have the resources to do so.

On this, the petitioner submits that he has no notice of any proceedings, which are pending against him. But he fairly submits that he will put in appearance on 09.09.2018 before the trial court where the proceedings under Section 125 Cr.P.C. are pending.

In view of the above, it is ordered that in case, the petitioner appears and moves an application for setting aside the ex parte order in the proceedings pending under Section 125 Cr.P.C., the same be decided expeditiously, preferably within a period of one month.

August 28, 2018
vijay saini

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No