

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

Crl. Misc. M-33827 of 2018 (O&M)
Date of Decision: August 29, 2018

Sukhdev Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Arnav Sood, Advocate
for the petitioner.

Ms. Rajni Gupta, Senior DAG Punjab.

Mr. Jasraj Singh, Advocate
for the complainant.

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.71 dated 07.06.2018, under Sections 406, 498-A, 506, 420, 34 of the Indian Penal Code, registered at Police Station Bullowal, District Hoshiarpur.

Learned counsel for the petitioner herein contends that by the same impugned order dated 01.08.2018, the mother of the petitioner has been allowed anticipatory bail by the Addl. Sessions Judge, Hoshiarpur, however, his bail was denied by taking note of the fact that no recovery of the gold has been made, while also taking into account the specific allegations raised that the petitioner herein has links with terrorists. It is

argued that both the statements are palpably false since, some recoveries have been made of the gold items as well as the fact that there is no evidence available on record to establish that the petitioner has any links with the terrorists.

On the other hand, learned counsel for the complainant opposes the grant of regular bail to the petitioner, while contending that this is a classic case where the petitioner solemnized a marriage with the complainant and thereafter, left for Germany, abandoning her in India. It is also argued that the petitioner and his family members are still in the possession of the gold items and the recoveries that have been effected are wholly inadequate. In fact, out of total 20 tolas of gold, only 4 tolas of gold has been recovered.

Per contra, learned counsel appearing on behalf of the respondent-State affirms the fact that only about 04 tolas of gold has been recovered whereas, there are verified bills, which have been submitted, which show that almost 20 tolas of gold that had been purchased at the time of marriage.

I have heard learned counsel for the parties.

An effort was made by this court to effect conciliation between the parties, after the mediation process in the courts below failed, however, the same does not seem to be feasible. Admittedly, the marriage between the parties was solemnized, which has not really stood the test of time. The marriage lasted for around two weeks, with the petitioner leaving for Germany. The complainant was then turned out of matrimonial home, with an alleged demand of ₹ 50 lacs to be brought in dowry. This court is

informed that the allegations that have been made regarding the petitioner having links with the terrorists, there is no evidence available to establish the said fact. The recoveries that have been made pertains to a few gold items and clothing belonging to the complainant. A specific amount of gold is still to be recovered, which according to the petitioner the complainant has taken, when she left the matrimonial home.

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 above, at this stage, without commenting on the merits of the case, the petition is being allowed and order dated 08.08.2018 granting interim bail to the petitioner is being absolute subject to the conditions laid down in Section 438 Sub Section 2 Clauses (i)(ii) and (iii) of the Code of Criminal Procedure. In the facts and circumstances of the present case, this court deems it appropriate to grant anticipatory bail to the petitioner in case, he deposits a sum of ₹ 1.5 lacs in lieu of the alleged recoveries that are yet to be effected. This amount is less than half of the amount that is allegedly due on account of gold items.

The petitioner herein is directed to deposit the aforesaid amount of ₹ 1.5 lacs in the form of an FDR with the Illaqa Magistrate within a period of six weeks from today. The said FDR is to be made in the name of the complainant, with a lien marked to the Illaqa Magistrate, who would release it in case, the complainant is successful under the FIR. The

petitioner herein is also directed to deposit his passport with the Illaqa Magistrate within a period of two weeks from today. It is made clear that in case, the petitioner fails to deposit either the aforesaid amount within six weeks or his passport within two weeks, as stipulated, any protection granted to the petitioner by this order shall stand automatically vacated.

The petition stands allowed in the aforesaid terms.

August 29, 2018
vijay saini

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No