

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

Crl. Misc. M-43371 of 2016 (O&M)
Date of Decision: March 28, 2018

Rohit Garg

...Petitioner

Versus

State of Haryana

...Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Anupam Gupta, Senior Advocate with
Ms. Harmanjot Kaur, Advocate
for the petitioner.

Mr. P.P. Chahar, DAG Haryana.

Mr. G.S. Sandhu, Advocate
for the complainant.

Complainant in person.

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.902 dated 15.10.2016, under Sections 323, 406, 498-A, 506 of the Indian Penal Code, registered at Police Station City Thanesar, District Kurukshetra.

In short, a marriage was solemnized between petitioner-Rohit Garg and complainant-Kanika on 04.02.2014, out of which wedlock a baby boy was born on 23.01.2015. On account of matrimonial differences that arose between the parties, apart from allegations of cruelty and demand of

dowry, the aforesaid FIR came to be lodged.

By an order dated 15.12.2016, arrest of the petitioner was stayed, in order to give a chance to the parties to settle the dispute amicably through Mediation and Conciliation Centre of this court. However, mediation tried between the parties did not fructify. During the pendency of these proceedings, a few of the dowry articles have been recovered.

Learned counsel appearing on behalf of the complainant submits that in fact, the gold items which are in the possession of the petitioner herein as would be reflected in the compromise, are still in the possession of the petitioner. Further, dowry articles and FD lying in the locker were to be handed over to the complainant, which has not been done so. The complainant, who is present in the court, submits that in fact, recovery of gold weighing 17 tolas is yet to be effected.

Arguments of learned counsel for the complainant have been duly endorsed by the State counsel.

At this stage, learned Senior counsel for the petitioner submits that whatever *istridhan*/dowry articles the petitioner had in his possession, those have been handed over to the Investigating Officer. However, learned counsel states that the petitioner is ready to deposit ₹ 5,50,000/- with the Illaqa Magistrate/trial court, in lieu of the alleged recoveries that are yet to be effected.

I have heard learned counsel for the parties and also taken note of the offer that has been made by learned Senior counsel appearing on behalf of the petitioner.

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.

In view of the above, let the amount of ₹ 5,50,000/- be deposited with the Illaqa Magistrate/trial court, which would be value of the alleged *istridhan*/17 tolas of gold as on date, alleged to be in the possession of the petitioner, in lieu of the alleged recoveries within a period of one month. The said amount to be disbursed to the complainant in case, the complainant is successful in her allegations.

With the aforesaid directions, at this stage, without commenting on the merits of the case, the petition is allowed and order dated 15.12.2016 granting interim relief 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 and deposit of Rs.5,50,000/- as directed above.

March 28, 2018
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(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No