

103.

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

CRM-M-1338-2019

Date of decision: 03.10.2019.

GURCHAIN SHARMA

... Petitioner

versus

STATE OF PUNJAB & ANR.

.... Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. H.S. Oberoi, Advocate,
for the petitioner.

Mr. Saurav Khurana, DAG, Punjab,
for respondent No.1.

Mr. Naveen Sharma, Advocate,
for respondent No.2.

HARI PAL VERMA, J. (Oral)

Prayer in this petition filed under Section 438 Cr.P.C. is for grant of anticipatory bail to the petitioner in case FIR No.72 dated 24.12.2018 registered under Sections 498-A, 406 of IPC at Police Station Women Cell, Bathinda.

Briefly stated, the aforesaid FIR was registered at the behest of complainant-Poonam Rani, who is the wife of petitioner-Gurchain Sharma. The marriage between the parties was solemnized on 10.07.2017 and out of this wedlock, a daughter was born to the complainant on 13.08.2018. The allegation against the petitioner is demand of dowry, harassment to the complainant, criminal breach of trust, recovery of istridhan of dowry articles. As per the FIR, the household articles like the utensils etc. were

given at the time of marriage in addition to double bed along with mattresses, *petti*, almirah, sofa set, cooler, LCD, Washing Machine, Refrigerator, Press, Press Table, Dinner set. One gold *karra* weighing one tola and one gold ring weighing half tola was given to the petitioner-Gurchain Sharma, one gold ring weighing half tola was given to Balvir Chand Sharma (father-in-law), one gold ring weighing half tola was given to Dayawanti (mother-in-law), one gold ring weighing 1 ½ tola each to three *phuphars* of the petitioner, one gold ring weighing half tola to the *mama* of the petitioner, one each gold ring weighing one tola was given to the husbands of the sisters of the petitioner at the time of marriage. In addition thereto, the parents of the complainant had also given one gold ring, gold earring (topas set), one gold garland weighing 3 tola to her. In-laws family had also given one gold set to the complainant. After marriage, the complainant went to her in-laws house where her mother-in-law asked her to hand-over jewellery to her with an assurance that whenever the complainant would require it, the same would be handed over to the complainant.

Counsel for the petitioner has argued that not so much jewellery was given in the marriage, as stated in the FIR. He further states that petitioner is ready to take his wife along with the daughter and to settle the dispute with her for a sum of Rs.3 lakhs.

At this stage, counsel for the complainant has argued that the dowry articles, referred in the FIR, were given to the accused family and the other persons as detailed in the FIR. He further states that since the petitioners-accused family members were harassing the complainant, she was thrown out from the matrimonial home. Gold jewellery given in the

marriage, is yet to be recovered in the case.

Learned State counsel, on instructions from ASI Jagsir Singh, states that all jewellery articles have not been recovered in the case. He further states that the documents of the complainant are still in the possession of the petitioners and the same have not been handed over to the IO despite repeated requests.

Vide order dated 04.02.2019 passed by this Court, the matter was referred to the Mediation and Conciliation Centre of this Court. However, the matter could not be resolved.

Vide order dated 23.09.2019, without prejudice to the right of the parties, the petitioner was directed to deposit a sum of Rs.3 lakhs in the name of complainant, as she is staying with her daughter separate from the matrimonial home.

Accordingly, counsel for the petitioner has handed over a bank draft of Rs.3 lakhs in the name of the complainant.

Counsel for the complainant has argued that apart from the bill dated 18.06.2017 (No.31400) issued by Jarnail Jeweller whereby 35.34 old jewellery was given, the complainant had given other jewellery as well.

Without observing anything as to how much jewellery was given, as the same is a matter of trial, but at this stage, when the amount of Rs.3 lakhs has been given to the complainant by way of bank draft and the fact that petitioner has joined the investigation and merely because recovery of some of the articles is to be effected, is no ground to decline bail as held by the Hon'ble Apex Court in ***Rajesh Sharma and others Versus State of U.P. and another 2017(3) RCR (Criminal) 836***, the present petition is

allowed and the order dated 08.04.2019 whereby the petitioner was directed to appear before the Investigating Officer, is made absolute. The payment of Rs.3 lakhs by way of bank draft as handed over to the complainant in the Court itself, would be subject to the final outcome of the trial in the case.

(HARI PAL VERMA)
JUDGE

03.10.2019
sanjeev

Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No