

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

CRM-M-5101 of 2019.

Decided on:- July 12, 2019.

Ankit Kalker.

.....Petitioner.

Versus

State of Haryana and another

.....Respondents.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

Present:- Mr. Jagjeet Beniwal, Advocate
for the petitioner.

Ms. Gaganpreet Kaur, A.A.G., Haryana.

HARI PAL VERMA, J. (Oral)

The petitioner has filed the present petition under Section 438 Cr.P.C. seeking anticipatory bail in the event of his arrest in FIR No.691 dated 19.10.2018 under Sections 323, 406, 498-A and 506 read with Section 34 IPC registered at Police Station Sadar Dadri, District Charkhi Dadri.

Learned State counsel, on instructions from ASI Naresh Kumar, states that though the petitioner has joined the investigation, but recovery of gold/jewellery has not been effected. She further states that the complainant has not supplied the details of gold items.

Considering the fact that it being a marriage solemnised on 13.03.2008 and two sons have been borne out of this wedlock, this Court finds that the demand of dowry after 10 years of marriage is unrealistic. Moreover, the petitioner has already joined the investigation and the anticipatory bail could not be declined at this stage merely on the ground that

recovery of gold articles is yet to be effected more particularly when the marriage between the parties was solemnised on 13.03.2008 i.e. more than 10 years before registration of the F.I.R.

Hon'ble Supreme Court in *Rajesh Sharma and others Versus State of U.P. and another 2017(3) RCR (Criminal) 836* has held that recovery of disputed dowry items may not by itself be a ground for denial of bail if maintenance or other rights of the wife/minor children can otherwise be protected. Similar view has also been taken by Hon'ble Supreme Court in *Social Action Forum for Manav Adhikar and another Versus Union of India, Ministry of Law and Justice and others 2018 (4) R.C.R. (Criminal) 226*.

Accordingly, the present petition is allowed and the interim bail granted to the petitioner vide order dated April 11, 2019 is made absolute.

However, if required, the petitioner shall continue to join investigation as and when required to do so and shall abide by the terms and conditions, as laid down under Section 438(2) Cr.P.C.

It is made clear that the observations made hereinabove shall not be construed as an expression of opinion on the merits of the case. The trial Court shall decide the case without being influenced with these observations in any manner.

July 12, 2019
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No