

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

Criminal Misc. No.M-22725 of 2018

Date of Decision: 14.10.2019

Kamlesh Kumari & others

...Petitioner(s)

Versus

State of Punjab & another

...Respondent(s)

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

Present:- Mr. D.S. Kahlon, Advocate
for the petitioners.

Mr. Sukhbeer Singh, AAG, Punjab.

HARI PAL VERMA, J. (Oral)

The petitioners, who are mother-in-law, father-in-law, married brother-in-law and husband of the complainant-respondent no.2, have filed the present petition under Section 438 CrPC for grant of anticipatory bail in FIR No.35 dated 11.14.2018 under Sections 498-A, 406 IPC registered at Police Station Sadar Gurdaspur, District Gurdaspur.

Counsel for the petitioners has argued that before the registration of the present FIR, mother of respondent no.2 had got FIR No.76 dated 28.08.2017 under Section 306 IPC registered at Police Station Sadar Gurdaspur, District Gurdaspur against petitioners no.2 Charan Das and petitioner no.4 Gurpreet Singh @ Amit Kumar along with other accused, in which, Charan Das (respondent no.2) and Raja were released

on anticipatory bail whereas Sanjiv Kumar and Gurpreet Singh @ Amit Kumar (petitioner no.4) were granted regular bail by this Court vide order dated 12.02.2018 passed in CRM-M-4682-2018 *Amit Kumar @ Gurpreet Singh & another Vs. State of Punjab*. Gurpreet Singh, petitioner no.4, remained in custody for about 3/4 months in the earlier FIR.

However, now, after having been granted bail to petitioner nos.2, 4 and other accused in that case, the complainant has got the present FIR registered against the petitioners by including other family members as well. There was no allegation as regards the demand of dowry in earlier FIR i.e. FIR No.76 dated 28.08.2017 under Section 306 IPC registered at Police Station Sadar Gurdaspur, District Gurdaspur. However, the petitioners have been roped in the present case by adding Section 498-A IPC for the reason that petitioners no.2, 4 and other accused have been granted bail.

Learned State counsel, on instructions from ASI Ravinder Singh, submits that recovery of two gold bangles and one gold set is required to be effected from the petitioners, however, the complainant has not produced any bills *qua* the jewellery. Even otherwise, the petitioners have joined the investigation.

I have heard learned counsel for the parties.

Admittedly, the petitioners have joined the investigation and the complainant has not produced any bills in support of her jewellery.

Hon'ble Supreme Court in the case of **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 order dated 25.05.2018 is made absolute.

However, the petitioners shall join the investigation as and when directed by the investigating agency and shall abide by the terms and conditions laid down under Section 438(2) Cr.P.C.

October 14, 2019
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?
Whether reportable?

Yes / No
Yes / No