

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

Criminal Misc. No.M-12511-2019

Date of Decision: 29.08.2019

Manoj Kumar Upadhyay

...Petitioner(s)

Versus

State of Haryana and another

...Respondent(s)

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

Present:- Mr. Sandeep Kotla, Advocate
for the petitioner.

Ms.Gaganpreet Kaur, AAG, Haryana.

HARI PAL VERMA, J. (Oral)

Prayer in the present petition filed under Section 438 of the Code of Criminal Procedure, 1973 is for grant of anticipatory bail to the petitioner in case FIR No.750 dated 24.12.2018, under Sections 406/498-A, 506, 34 IPC , registered at Police Station City, Yamuna Nagar.

Learned counsel for the petitioner states the marriage between the petitioner and respondent No.2- complainant was solemnised in the year 2005 and that after about 13 years the present FIR has been registered. He further submits that as directed by this Court, the petitioner has already handed over a draft of Rs. 1 lakh to respondent No.2-Sonia.

State counsel, on instructions from ASI Baldev Singh, does not dispute that the petitioner has joined the investigation but she states that some of the dowry articles including furniture are yet to be recovered from him.

I have heard learned counsel for the petitioner.

The 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*. Therefore, the argument of learned State counsel that some of the dowry articles including furniture are yet to be recovered from the petitioner, is no ground to deny anticipatory bail to the petitioner.

Considering the fact that the petitioner has joined investigation, the present petition is allowed and the interim order dated 18.03.2019 is made absolute.

However, the petitioner 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.

(HARI PAL VERMA)
JUDGE

29.08.2019

sunita

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No