

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

CRM-M-23135-2017

Date of decision: March 07, 2019

Sumesh Handa

....Petitioner

Versus

State of Punjab and another

....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present: Mr. Chetan Bansal, Advocate
for the petitioner.

Mr. Ramdeep Partap Singh, DAG, Punjab.

Mr. Sarju Puri, Advocate
for respondent No.2.

RAJ SHEKHAR ATTRI, J.

Through the instant petition preferred under Section 438 of Code of Criminal Procedure, petitioner has sought anticipatory bail in case bearing FIR No.70 dated 02.06.2017, under Sections 406, 498-A of the Indian Penal Code, 1860 (for short 'IPC'), registered at Police Station City Nawanshahar, District SBS Nagar.

It has been submitted that recovery of the gold ornaments has not been effected.

The remedy of anticipatory bail is extraordinary one and should be used in exceptional cases. The Hon'ble Supreme Court in ***Siddharam Satlingappa Mhetre vs. State of Maharashtra and others*** **2011 AIR (SC) 312** issued the following parameters for grant of anticipatory bail :-

“122. The following factors and parameters can be taken into consideration while dealing with the anticipatory bail :

i. The nature and gravity of the accusation and the exact role of the accused must be properly

- comprehended before arrest is made;*
- ii. The antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a Court in respect of any cognizable offence;*
- iii. The possibility of the applicant to flee from justice;*
- iv. The possibility of the accused's likelihood to repeat similar or the other offences.*
- v. Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her.*
- vi. Impact of grant of anticipatory bail particularly in cases of large magnitude affecting a very large number of people.*
- vii. The courts must evaluate the entire available material against the accused very carefully. The court must also clearly comprehend the exact role of the accused in the case. The cases in which accused is implicated with the help of sections 34 and 149 of the Indian Penal Code, the court should consider with even greater care and caution because over implication in the cases is a matter of common knowledge and concern;*
- viii. While considering the prayer for grant of anticipatory bail, a balance has to be struck between two factors namely, no prejudice should be caused to the free, fair and full investigation and there should be prevention of harassment, humiliation and unjustified detention of the accused;*
- ix. The court to consider reasonable apprehension of tampering of the witness or apprehension of threat to the complainant;*
- x. Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the*

normal course of events, the accused is entitled to an order of bail.”

Although, the petitioner has joined the investigation, even at present, petitioner is not ready to return the gold ornaments.

No case is made out to grant the concession of anticipatory bail to the petitioner.

Petition stands dismissed accordingly.

(RAJ SHEKHAR ATTRI)
JUDGE

March 07, 2019
m. sharma

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No