

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

209

CRM-M-29386-2018

Date of Decision:11.04.2019

Major Ankit Joon

.....Petitioner

Versus

State of Haryana

.....Respondent

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

Present: Mr. Inderpal Singh Doabia, Advocate,
for the petitioner.

Ms. Mahima Yashpal, A.A.G., Haryana.

Mr. Naveen Kumar, Advocate,
for the complainant.

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 FIR No.0005 dated 25.01.2018 under Sections 107, 306, 377, 406, 498-A, 511 IPC, registered at Police Station Women Police Station, Rohtak.

Learned counsel for the petitioner states that pursuant to the order dated 17.07.2018 passed by this Court, petitioner has joined the investigation.

Learned counsel for the complainant states that some of the gold ornaments are yet to be recovered from the petitioner.

Learned State counsel, on instructions from SI Sudesh, does not dispute the aforesaid fact and states that the custodial interrogation of the

petitioner is no more required at this stage. However, she states that whatever bills were submitted by the complainant, the recovery has been effected from the petitioner.

Heard learned counsel for the parties.

Hon'ble Apex 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*** has held that when an application for bail is entertained, proper conditions have to be imposed but recovery of disputed dowry items may not by itself be a ground while rejecting an application for grant of bail under Section 498-A IPC. The relevant paragraph of the said judgment reads as under:-

*“35. Though **Rajesh Sharma** (supra)¹ takes note of **Gian Singh** (supra)², yet it seems to have it applied in a different manner. The seminal issue is whether these directions could have been issued by the process of interpretation. This Court, in furtherance of a fundamental right, has issued directions in the absence of law in certain cases, namely, **Lakshmi Kant Pandey v. Union of India**³, **Vishaka and others v. State of Rajasthan and others**⁴ and **Common Cause (A Registered Society) v. Union of India and another**⁵ and some others. In the obtaining factual matrix, there are statutory provisions and judgments in the field and, therefore, the directions pertaining to constitution of a Committee and conferment of power on the said Committee is erroneous. However, the directions pertaining to Red Corner Notice, clubbing of cases and postulating that recovery of disputed dowry items may not by itself be a ground for denial of bail would stand on a different footing. They are protective in nature and do not sound a discordant note with the Code. When an application for bail is entertained, proper conditions have to be imposed but recovery of disputed dowry items may not by itself be a ground while rejecting an application for grant of bail under Section 498-A IPC. That cannot be considered at that stage.*

¹ Rajesh Sharma & ors v. State of U.P. & anr, 2017(3) R.C.R. (Criminal) 836.

² Gian Singh v. State of Punjab, (2012) 10 SCC 303.

³ (1984) 2 SCC 244.

⁴ (1997) 6 SCC 241.

⁵ (2018) 5 SCC 1.

Therefore, we do not find anything erroneous in direction Nos. 19 (iv) and (v). So far as direction No. 19(vi) and 19(vii) are concerned, an application has to be filed either under Section 205 CrPC or Section 317 CrPC depending upon the stage at which the exemption is sought.”

In view of the above, since the petitioner has joined the investigation and his custodial interrogation is no more required, present petition is allowed and the interim bail granted to the petitioner vide order dated 17.07.2018 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.

April 11, 2019

SEEMA

**(HARI PAL VERMA)
JUDGE**

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No