

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

CRM-M-30710-2018 (O&M)
Date of decision: 26.3.2019

Balwinder Singh

... Petitioner(s)

VERSUS

State of Punjab

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present: Mr.Amit Arora, Advocate.
for the petitioner.

Mr. V.G. Jauhar, Sr. DAG, Punjab.

Mr. Sumit S. Bairagi, Advocate,
for the complainant.

RAJ SHEKHAR ATTRI, J. (Oral)

The present petition has been filed under Section 438 Code of Criminal Procedure for grant of anticipatory bail to the petitioner in case FIR No.100 dated 2.6.2018 registered for the offences punishable under Sections 498-A, 406, 120-B of Indian Penal Code, at Police Station Sadar Patti, District Tarn Taran.

Heard.

The conduct and attitude of the husband-petitioner since after filing of this petition does not entitle him to the grant of bail. However, keeping in view the circumstances of the case, this Court has directed the petitioner to pay a sum of ₹ 22,000/- as litigation expenses while granting interim bail to the petitioner but nothing has been paid today.

The matter was also referred to the mediation & conciliation

centre of this Court but it remained unsuccessful. The allegations have been levelled against the petitioner and his family members that they were demanding more dowry and maltreating & harassing the respondent wife. It is specifically stated in the FIR that one car make Bolero and a motor cycle was given to the petitioner.

Learned counsel for the petitioner has conceded that these vehicles are in his possession.

Learned State counsel has placed on record list of dowry articles including jewellery which were given to the petitioner and his family members as entrustment of *Istri dhan* at the time of marriage. The police has verified the purchase bills with regard to these items.

Although the petitioner has joined the investigation but he did not return any articles belonging to the complainant. Apart from it, serious allegations with regard to maltreatment and treating with cruelty have been levelled against the petitioner.

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

“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.”

To the mind of this Court, no case is made out for grant of anticipatory bail. Accordingly, the present petition stands dismissed.

March 26, 2019

Paritosh Kumar

Whether speaking/reasoned :
Whether reportable :

(RAJ SHEKHAR ATTRI)
JUDGE

Yes/No
Yes/No

