

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

**CRM M-35508-2018 (O&M)**

**Date of Decision : 11.02.2019**

Gurbhej Singh

..... Petitioner

Versus

State of Punjab and another

..... Respondents

**CORAM : HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI**

**\*\*\***

Present : Mr. Gagan Deep Goel, Advocate for  
Ms. Maninderpreet Kaur, Advocate  
for the petitioner.

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

Ms. Sushma Chopra, Advocate  
for respondent No.2.

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**RAJ SHEKHAR ATTRI, J. (Oral)**

The petitioner has preferred the instant petition under Section 438 Cr.P.C. for stay of arrest of the petitioner and directing the arresting officer to release the petitioner on bail in case FIR No.0013 dated 23.05.2018, registered under Sections 406, 498-A IPC, at Police Station Women Cell, Patiala.

Atrocities, both physical and mental, against women are at rise. This case is also an example of the same where the respondent-wife, after few months of the marriage was maltreated, beaten up and attempt was made to eliminate her life.

The marriage of the petitioner with respondent No.2-complainant Smt. Kulwinder Kaur (hereinafter referred to as 'the

complainant') was solemnized on 13.02.2017. She submitted an application to the police on 21.05.2018 making allegations of physical and mental cruelty. It has been specifically stated in the application that the petitioner, his sister and parents have been demanding more dowry as they were not satisfied with the dowry articles brought by the complainant. Even it is alleged that sister-in-law of the petitioner instigated the complainant to abandon her husband.

Numerous instances of the beating has been given in the FIR. Even she was medico legally examined at one occasion.

In September, 2017, a Panchayat was convened and at that time the petitioner and his father undertook not to beat or maltreat the complainant and she was sent to her matrimonial home. Again she was maltreated by the petitioner as well as by his family members. They were demanding more dowry and also demanding car.

It is alleged that on 17.10.2017 at about 10:00 p.m. At about 10:00 p.m. when she was sleeping in her bedroom then suddenly, her husband accompanied by his parents and sister entered her room. They caught hold the complainant from her long hairs. Then her mother-in-law put a dupatta around her neck and her husband started beating her. Even her father-in-law threatened the complainant to kill and also outraged her modesty.

I have heard learned counsel for the parties and have gone through the record.

Learned counsel for the petitioner has submitted that the petitioner has joined the investigation and nothing is to be recovered from him.

On the other hand, learned State counsel has submitted that although the petitioner has joined the investigation yet he did not produce the articles belonging to complainant rather substituted articles were produced. The complainant was called for identification of those articles but she denied being those of her. Rather she has stated that those articles have been substituted.

To the mind of this Court, serious allegations have been levelled against the petitioner. He is not only demanding dowry but also beating and maltreating her. It is adding insult to injury to a hapless wife who is also given similar treatment by her parents in law and sister in law.

The police wants to recover the articles of *istridhan*. Adequate opportunities have been given to the petitioner to return those articles. He was also asked to join the investigation but he did not return the *istridhan* articles belonging to complainant.

The remedy of anticipatory bail is extraordinary 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*** 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.”*

Keeping in view the seriousness of the offence, the petitioner is required for custodial interrogation. As such, no case to grant the concession of anticipatory bail to the petitioner is made out.

Accordingly, the instant petition stands dismissed.

11.02.2019  
mamta

( RAJ SHEKHAR ATTRI)  
JUDGE

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|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether Reportable :      | Yes/No |