

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

CRM-M-43480-2018 (O&M)
Date of decision: 31.5.2019

Gurpreet Singh

... Petitioner(s)

VERSUS

State of Punjab and another

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present: Mr. Manuj Nagrath, Advocate.
for the petitioner.

Mr. Sukhbeer Singh, AAG, Punjab.

Complainant with her counsel
Mr. Amandeep Singh Rai, Advocate

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.69 dated 5.9.2018 registered for the offences punishable under Sections 406, 498-A, 420 of Indian Penal Code, at Police Station Women Cell, District Ludhiana.

It is the allegations against the petitioner that he had committed fraud upon the complainant and solemnized marriage by stating that he is MBA but in fact, this version was found to be incorrect and it was found that he was convicted and sentenced for committing a murder and after going through the long period of sentence, he has now been released on bail by this Court. Apart from this, it is alleged that he is a drug addict and he along with his family members were demanding more dowry.

the petitioner and his family members started taunting the complainant for bringing less dowry and also that the dowry articles being of inferior quality. They continuously started harassing the complainant and was putting pressure for bringing more dowry and for that purpose, they assaulted her and on one occasion, father-in-law and mother-in-law of the complainant, snatched the phone of the complainant. It was further alleged that she had got pregnant but the petitioner and his family members were agitating that the sex of the child be determined and on her refusal to do so, she was beaten up and ultimately, she suffered a miscarriage and on one occasion, she and her father-in-law were alone in the house and she was caught hold from behind by her father-in-law. When she complained about the same to her husband and mother-in-law, no action was taken against him. It is also alleged that her husband is having extra martial affairs with other ladies.

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

In this case, recovery of about 138 grams of gold has not been effected. Serious allegations have been levelled against the petitioner with regard to demand of dowry, treating the complainant with cruelty and also outraging her modesty by her father-in-law.

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.”

Keeping in view the above, the petitioner is not entitled to the concession of pre-arrest bail.

Dismissed.

May 31, 2019
Paritosh Kumar

(RAJ SHEKHAR ATTRI)
JUDGE

Whether speaking/reasoned : Yes/No

PARITOSH KUMAR 2019.06.10 15:12 I attest to the accuracy and authenticity of this document
Whether reportable : Yes/No

