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

CRM-M-45928-2018 (O&M)

Date of decision:03.07.2019.

TARSEM SINGH DOGRA AND ANR

... Petitioners

Versus

STATE OF UT CHANDIGARH & ANR.

.... Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Ms. Sakshi Doda, Advocate, for
Mr. B.B. Bagga, Advocate,
for the petitioners.

Mr. Lalit K. Gupta, Addl. P.P., U.T., Chandigarh,
for respondent No.1.

Mr. Lalit Thakur, Advocate,
for respondent No.2-complainant.

HARI PAL VERMA, J.(Oral)

CRM-41302-2018

Prayer in this application filed under Section 482 Cr.P.C. is to
place on record the amended memo of parties.

For the reasons stated in the application, same is allowed and
the amended memo of parties is taken on record.

CRM-M-45928-2018

Prayer in the present petition filed under Section 438 of the
Code of Criminal Procedure, 1973 is for grant of anticipatory bail to the
petitioners in FIR No.13 dated 03.03.2018 registered under Sections 323,
406, 498A of IPC at Police Station Women, Sector 17, Chandigarh.

Learned counsel for the petitioners states that pursuant to the order dated 17.10.2018 passed by this Court, petitioners have joined the investigation.

Learned State counsel as well as learned counsel for the complainant-respondent No.2 have argued that though the petitioners have joined investigation, but recovery of some jewellery is yet to be effected.

I have 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*

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.

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. 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.”

Considering the fact that the petitioners have joined the investigation and as held in ***Social Action Forum for Manav Adhikar and another (supra)*** that recovery itself cannot be a ground to decline bail to the petitioners more particularly when the husband is already on bail, the present petition is allowed and the interim bail granted to the petitioners vide order dated 17.10.2018 is made absolute.

However, if required, the petitioners 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.

(HARI PAL VERMA)
JUDGE

03.07.2019
sanjeev

Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No