

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

CRM-M No.47105 of 2018 (O&M)

Date of decision: 9th January, 2019

Kunal Sethi

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. R.S. Bains, Advocate for the petitioner.

Mr. A.S. Sandhu, Addl. Advocate General, Punjab with
ASI Gulshan Kumar, PS Model Town, Hoshiarpur
for the respondent/State.

Mr. P.S. Thiara, Advocate for the complainant.

FATEH DEEP SINGH, J.

Allegations against the petitioner husband Kunal Sethi in this first anticipatory bail application under Section 438 Cr.P.C. in case bearing FIR No.143 dated 01.08.2018 under Sections 498-A, 406, 34 IPC pertaining to Police Station Model Town, District Hoshiarpur, levelled by the complainant wife Garima Ratna Sethi are that marriage between the couple took place on 28.01.2012 and that during the course of matrimony, a matrimonial dispute arose between the parties regarding which a complaint was moved on 02.03.2017 but the same did not find favour with the police. In her allegations, the complainant alleged that on account of demand of dowry her parents at the marriage gave sufficient amount, gold, diamond and other costly items on the asking of the

accused side but in spite of the same, the accused were not happy with the same and often used to harass and taunt the complainant, as a consequence of which due to stress she suffered brain hemorrhage on 16.01.2013 and in spite of her precarious condition the accused side did not bother for her medical treatment and her parents got her medically treated, leading to registration of the present case.

Mr. R.S. Bains, Advocate learned counsel for the petitioner submits that all the allegations against the petitioner husband are figment of imagination of the complainant and neither there is any specific entrustment of articles of Stridhan much less any criminal breach of trust qua them and that there is inordinate delay in registration of the case and has sought to put forth that the husband had filed a divorce petition against the complainant wife and the present case is a counterblast to the same.

On behalf of the State, Mr. A.S. Sandhu, Addl. Advocate General, Punjab on instructions from ASI Gulshan Kumar, PS Model Town, Hoshiarpur assisted by Mr. P.S. Thiara, Advocate representing the complainant have opposed the grant of bail on the grounds that specific allegations of demand and entrustment of articles of Stridhan have been made in the complaint and rather on account of influence wielded by the accused petitioner, the police are not acting into the matter and it was after frantic efforts of the complainant side, the present case has been got registered and that in itself explains the reason for this delay. It is argued

that the articles of Stridhan are yet to be recovered, and have sought to project the statement of the co-accused of the petitioner who have all stated that the entire articles of Stridhan are presently lying with the petitioner husband.

Going through the arguments, the claim of Mr.Bains, learned counsel for the petitioner that it is a counterblast to the divorce petition, does not convince the Court much as the marriage has taken place in January 2012 and it is the allegation of the prosecution that on demand of the accused side huge valuable articles were given at the marriage and which were handed over to the accused side. The co-accused of the petitioner accept the fact that the articles of Stridhan are lying with the petitioner, are matters of much significance. The question of delay as well as counterblast are matters which can only be adjudicated at the trial. The custodial interrogation of the petitioner is very much essential for the recovery of articles of Stridhan. Keeping in view the allegations of the complainant and the fact that provisions of Section 438 Cr.P.C. are to be sparingly used, no case for grant of anticipatory bail is made out. There being no merit, the petition stands dismissed.

(FATEH DEEP SINGH)
JUDGE

January 9, 2019

rps

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No