

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

CRM-M-48353 of 2017.
Decided on:- July 23, 2019.

Haider Ali Khan.

.....Petitioner.

Versus

State of Haryana and another

.....Respondents.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

Present:- Mr. S.K. Singla, Advocate for
Mr. Akshit Aggarwal, Advocate
for the petitioner.

Ms. Gaganpreet Kaur, AAG, Haryana.

Mr. R.S. Mamli, Advocate
for respondent No.2.

HARI PAL VERMA, J. (Oral)

The petitioner has filed the present petition under Section 438 Cr.P.C. seeking anticipatory bail in the event of his arrest in FIR No.237 dated 11.10.2017 under Sections 498-A, 313, 406 and 506 IPC registered at Police Station Sadar Yamuna Nagar, District Yamuna Nagar.

Vide order dated 18.12.2017, this Court, while referring the matter to the Mediation and Conciliation Centre of this Court, granted interim bail to the petitioner. However, no amicable settlement has been arrived at between the parties in mediation proceedings.

Learned counsel for the petitioner has argued that the petitioner has already joined the investigation and his custodial interrogation is not required.

On the other hand, learned counsel for respondent No.2-complainant has argued that recovery of dowry articles is yet to be effected from the petitioner.

Similarly, learned State counsel, on instructions from ASI Jaswinder Singh, states that custodial interrogation of the petitioner is required as some dowry articles are yet to be recovered from him.

Having heard learned counsel for the parties, this Court finds that merely because some recovery is required to be effected cannot be a ground to deny anticipatory bail to the petitioner. Moreover, it is during the course of trial, the prosecution is required to establish the entrustment of dowry to the petitioner.

Moreover, Hon'ble Supreme Court in ***Rajesh Sharma and others Versus State of U.P. and another 2017(3) RCR (Criminal) 836*** has held that recovery of disputed dowry items may not by itself be a ground for denial of bail if maintenance or other rights of the wife/minor children can otherwise be protected. Similar view has also been taken by Hon'ble Supreme 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.***

Accordingly, the present petition is allowed and the interim bail granted to the petitioner vide order dated 18.12.2017 is made absolute.

However, if required, the petitioner 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.

It is made clear that the observations made hereinabove shall not be construed as an expression of opinion on the merits of the case. The trial Court shall decide the case without being influenced with these observations in any manner.

July 23, 2019
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No