

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

CRM-M-4064 of 2019.

Decided on:- January 08, 2020.

Sumit Jagya.

.....Petitioner.

Versus

State of Haryana and another

.....Respondents.

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

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Present:- Mr. Aditya Sanghi, Advocate  
for the petitioner.

Ms. Gaganpreet Kaur, A.A.G., Haryana.

Mr. Kabir Sarin, 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.100 dated 21.10.2018 under Sections 323, 406, 498-A, 506, 354-A and 377 read with Section 34 IPC (Sections 377 and 354-A IPC deleted by police) registered at Women Police Station, Faridabad, District Faridabad.

Vide order dated January 29, 2019, arrest of the petitioner was stayed by this Court and the petitioner was directed to pay a sum of Rs.25,000/- to the respondent No.2 as litigation expenses on the next date of hearing i.e. 28.02.2019. Thereafter, vide order dated February 28, 2019, the matter was referred to the Mediation and Conciliation Centre of this Court,

where the parties were directed to appear on 07.03.2019. However, the report from the Mediator suggests that the matter could not be resolved between the parties.

Learned counsel for the petitioner has submitted that the marriage between the petitioner and respondent No.2 was solemnised on 02.12.2015 and out of this wedlock, they have a child born on 27.11.2017. He has referred to various photographs (Annexure P-5) so as to support his contention that all the dowry articles were offered to the respondent No.2 during investigation, but she had not taken those articles. As regard the gold jewellery, no bill has been produced by respondent No.2-complainant during investigation.

At this stage, learned counsel for respondent No.2-complainant has argued that the articles as shown in photographs (Annexure P-5) are not those articles which were given in the marriage, rather, the same have been replaced with inferior quality of articles. As regard the bills of gold jewellery, learned counsel for the respondent No.2 has submitted that the bills regarding jewellery were taken by the petitioner in order to protect the warranty and in this manner, right now, the respondent No.2 is not in possession of the bills of jewellery. He further states that since the respondent No.2 has a two years old daughter, it was difficult for her to maintain the bills.

Learned State counsel, on instructions from ASI Kallu Singh, states that the complainant was offered the articles as mentioned in photographs (Annexure P-5) during investigation, but she did not take the delivery of those articles.

I have heard learned counsel for the parties.

The marriage between the petitioner and respondent No.2 was solemnised on 02.12.2015. The respondent No.2-complainant has not taken the delivery of articles as shown in photographs (Annexure P-5) on the ground that those articles were not the same as were given at the time of marriage. This fact can only be established during the trial by leading evidence.

As regard the argument of learned counsel for respondent No.2-complainant that the bills of jewellery have been taken by the petitioner, no such duplicate bills have been produced during the investigation. 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 order dated 29.01.2019 whereby arrest of the petitioner was stayed by this Court, is made absolute.

However, in case the petitioner is required in the case in any manner, a clear 15 days notice shall be served upon him.

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.

January 08, 2020  
Yag Dutt

(HARI PAL VERMA)  
JUDGE

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