

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

(1)

CRM-M-46727 of 2017 (O&M)
Date of Decision: January 22, 2020

Sushma @ Prabha Sharma and another

...Petitioners

Versus

State of Haryana

...Respondent

(2)

CRM-M-8192 of 2018 (O&M)

Himanshu Sharma and another

...Petitioners

Versus

State of Haryana

...Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Parveen Malik, Advocate
for the petitioners in both the cases.

Ms. Mahima Yashpal, AAG Haryana.

Mr. Nagar Singh, Advocate for
Mr. A.S. Shera, Advocate
for the complainant.

JAISHREE THAKUR, J. (Oral)

By way of this common order, this court shall dispose of above captioned two petitions for grant of anticipatory bail, as the same arise out of the one FIR.

These petitions have been filed under Section 438 of Cr.P.C., for grant of anticipatory bail to the petitioners in FIR No.957 dated

30.10.2017, registered under Sections 498-A, 406, 377, 376, 511 of Indian Penal Code at Police Station Sector-7, Faridabad.

Counsel for the petitioners herein would contend that these petitions have been filed by husband, brother-in-law, father-in-law and mother-in-law of the complainant on allegations, which are not sustainable, while further arguing that pursuant to the interim order, they had already joined the investigation and recoveries have already been made.

On the other hand, counsel for the complainant would submit that in fact, recoveries as alleged, have not been effected. The gold items and other household articles are still in the custody of the petitioners. In fact, it is a camera, which has been recovered.

Per contra, counsel for the respondent-State would submit that petitioners herein did join the investigation, however, recoveries qua the gold items are yet to be effected.

I have heard all the three counsel for the parties and also perused the police record, which would reflect that most of the dowry articles other than gold items have already been recovered and have been handed over to the complainant/her family members through various recovery memos, under their signatures.

At this stage, counsel for the respondent-State submits that in fact, no bills are submitted for the gold articles with the Investigating Officer, however, it appears that the complainant has already furnished the same with the trial court seized of the matter.

There are plethora of judgments to the effect that bail should not be denied only on account of the fact that recoveries have not been

made.

Since the investigation is complete and most of the articles other than the gold items have been recovered, the petitioners herein are directed to deposit an amount of ₹ 7,00,000/- in the name of the complainant in the shape of an FDR with some nationalized bank fetching higher interest with the trial court/Illaq Magistrate within a period of one month from today, in lieu of the alleged recoveries of the gold items. It is made clear that the said amount of ₹ 7,00,000/- would be disbursed to the complainant in case, she would be successful in her allegations, otherwise it would be returned to the petitioners.

At this stage, without commenting on the merits of the case, these petitions are allowed with the aforesaid directions and orders granting interim bail to the petitioners are made absolute subject to the conditions laid down in Section 438 Sub Section 2 Clauses (i)(ii) and (iii) of the Code of Criminal Procedure.

Needless to say, in case, the petitioners herein fail to comply with the aforesaid directions within the stipulated period of one month, these petitions shall be deemed to be dismissed and the respondent-State shall be at liberty to proceed against them in accordance with law.

January 22, 2020
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(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No