

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

PANKAJ KUMAR
NOTARY PUBLIC
I attest to the accuracy and
integrity of this document

CRM-M No.33884 of 2020 (O&M)

Date of Decision.03.09.2021

(Heard through VC)

Amit Bakshi

...Petitioner

Vs

State of Punjab

...Respondent

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Lakhwinder Singh Mann, Advocate
for the petitioner.

Mr. A.S. Gill, Sr. DAG, Punjab.

Mr. Inderjit Sharma, Advocate
for the complainant.

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JAISHREE THAKUR J. (ORAL)

CRM No.10130 of 2021

Application is allowed.

Annexures P-8 to P-19 are taken on record.

CRM-M No.33884 of 2020

1. The instant petition has been filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in case FIR No.150 dated 30.07.2020 under Sections 498-A, 406, 120-B IPC registered at Police Station City Gurdaspur, District Gurdaspur.
2. Learned counsel appearing for the petitioner prays for grant of anticipatory bail to the petitioner by contending that the instant FIR has been registered by the complainant as a counterblast to FIR No.462 dated 27.07.2020 under Sections 148, 149, 323, 452 IPC at Police Station Yamuna Nagar City, District Yamuna Nagar got registered by the petitioner's mother. It is further contended that the petitioner

got married the complainant-Ms. Shivani Bakshi on 29.05.2014 and there was no complaint against the petitioner prior to lodging of the instant FIR.

3. This Court vide order dated 21.10.2020 directed the petitioner to join investigation, which according to the petitioner has been complied with.

4. Learned counsel appearing on behalf of the respondent-State on instructions from the Investigating Officer would submit that though the petitioner has joined investigation, he has not cooperated nor returned the *ishtridhan*. Learned counsel appearing on behalf of the complainant would contend that the complainant was bringing up the minor child, who was facing kidney problem, consequent to which the petitioner had been directed to pay a sum of Rs.1 lakh to the complainant, which order was complied with. He further submits that almost 1 kg of gold and other dowry articles have not yet been recovered. It is also argued that the petitioner herein has misappropriated the account of the complainant and withdrawn almost Rs.11 lakhs from the said account.

5. Whereas learned counsel appearing on behalf of the petitioner would controvert the said contention by arguing that according to the recovery memo, a car has already been returned, apart from dowry articles which include 1 double door fridge, 2 ACs, 2 ACs split of LG company, LED, dressing table, double bed, 7 bags having 14 new suits, 8 blankets, dinner set etc. Apart from that, one gold chain weighing 24.290 gms was also handed over. It is argued that the complainant while leaving the matrimonial home took the gold articles as given to her by her parents and family members of the petitioner herein. It is further stated that allegations as made out that the petitioner had withdrawn Rs.11 lakhs out of bank account of the complainant are false as it was a joint bank account, therefore, there was no bar for the petitioner to have withdrawn the amounts.

6. I have heard learned counsel for the parties and in view of the fact that the petitioner has joined, this Court deems it appropriate to make absolute order dated 21.10.2020 granting interim bail to the petitioner. As far as contention raised by the counsel for the complainant that recoveries of gold articles have not been effected, the same would be a matter of trial as has been held in catena of judgments rendered by the Hon'ble Supreme Court in ***Rajesh Sharma and others Vs. State of UP. and another*** and by this High Court in ***Prit Pal Singh Vs. State of Punjab and another*** in CRM-M No.29829 of 2012 dated 23.08.2013; ***Gurjit Singh Vs. State of Punjab*** in CRM-M No.10867 of 2016 decided on 25.05.2017. In the latest judgment of Hon'ble Supreme Court in ***Social Action Forum for Manav Adhikar and another Vs. Union of India, Ministry of Law and Justice and others 2018 (4) RCR (Criminal) 226***, it has been held in para 35 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*'. Further, the allegation of withdrawal of amount of Rs.11 lakhs from the bank account of the complainant by the petitioner would be a matter of trial as to whether it was a joint account of petitioner and the complainant, and the amount allegedly withdrawn was deposited by the complainant from her own funds.

7. As an upshot of my finding, the instant petition is allowed and the order dated 21.10.2020 granting interim bail to the petitioner is made absolute, subject to the conditions laid down under Section 438(2) Cr.P.C.

(JAISHREE THAKUR)
JUDGE

September 03, 2021

Pankaj*

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No