

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of decision: 07.12.2021

CRM-M-46499-2019

Neha Aggarwal

.... Petitioner

versus

State of Punjab & others

.... Respondents

CRM-M-5045-2020

Neha Aggarwal

.... Petitioner

versus

State of Punjab & another

.... Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. D.S.Bhinder, Advocate
for the petitioner in CRM-M-46499-2019.

Mr. A.K.Goel, Advocate
for the petitioner in CRM-M-5045-2020.

Mr. Luvinder Sofat, AAG, Punjab.

Mr. H.S.Randhawa, Advocate for
Mr. P.S.Ahluwalia, Advocate
for respondents No.2 to 4 in CRM-M-46499-2019
for respondent No.2 in CRM-M-5045-2020.

Manjari Nehru Kaul, J.(Oral)

This order will dispose of two criminal petitions i.e. CRM-M-46499-2019 and 5045-2020 as both of them have arisen out of the same FIR. Brief facts of the case are taken from CRM-M-46499-2019.

This is the petition under Section 439(2) Cr.PC seeking cancellation of bail dated 17.10.2019 passed by Addl. Sessions Judge,

Sangrur in FIR No.208 dated 23.09.2019 under Sections 498-A and 406 IPC registered at Police Station City Sunam District Sangrur.

Learned counsel while drawing the attention of this Court to the allegations levelled in the FIR in question (Annexure P-1) submitted that learned trial Court failed to appreciate that the petitioner (complainant in the FIR in question) had levelled serious and specific allegations against all the private respondents i.e. her husband, father-in-law, mother-in-law and brother-in-law of subjecting her to mental and physical harassment as the dowry received by her at the time of marriage was not upto their expectations. While inviting the attention of this Court to the impugned order vide which the interim bail granted to the private respondents had been made absolute, he still further submitted that even though it was brought to the notice of the trial Court that cash amount and other dowry articles had not been recovered, however, the trial Court clearly fell into error by observing that the retention of cash amount and other dowry articles allegedly given to the petitioner by her family were a matter to be adjudicated upon during trial and it could not be a sole ground to decline the relief of bail to the private respondent(s) in addition to observing that sending the applicants behind bars would be a burden on the State exchequer. Learned counsel, thus, prayed that since the recovery of the dowry articles and various amounts of money which had been given to the private respondents by her family had still not been recovered the impugned order(s) deserved to be set aside.

While seeking cancellation of bail, a distinction must be drawn between an illegal and perverse order whereby bail has been granted on the

one hand and on the other hand, if it comes to light that the accused has misused the concession of bail by interfering with the course of investigation or has violated any conditions of bail, which were imposed upon him at the time of grant of bail. No doubt, if the Court notices that the order granting bail is perverse and against the material on record there should be no hesitation in cancelling the bail so granted.

Learned counsel while making his submissions laid a great deal of stress on the non-recovery of dowry articles including the cash allegedly given to the private respondents by the petitioner's family pursuant to an alleged demand made by them.

Hon'ble Supreme Court in *Social Action Forum for Manav Adhikar vs. Union of India, Ministry of Law and Justice, 2018(4) RCR (Crl.) 226* held that recovery of disputed dowry items cannot by itself be a ground for rejection of a petition for grant of bail U/S 498A IPC. It cannot be overemphasised that claims and counter-claims qua demand and entrustment of dowry articles made by respective parties at the stage of bail under Section 438 Cr.PC being disputed questions of fact cannot be gone into and be a relevant consideration for the grant or denial of anticipatory bail.

Coming to the case in hand, no doubt allegations have been levelled against the private respondents of allegedly subjecting the petitioner to mental and physical harassment with respect to demand of dowry and money etc., however, this Court would not be swayed merely by the non-recovery of a few dowry articles. The recovery of disputed articles cannot be ordered to be effected in a petition under Section 438 Cr.PC as

admittedly there are alternate remedies available under other provisions of law to seek recovery of those articles. Still further, learned counsel has not been able to bring to the notice of this Court any breach of conditions imposed by the trial Court at the time of extending the concession of anticipatory bail vide impugned order dated 17.10.2019.

As a sequel to above, this Court does not find any illegality much less perversity in the impugned order dated 17.10.2019 passed by the Court below.

Accordingly, the present petition(s) stand dismissed.

07.12.2021
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(MANJARI NEHRU KAUL)
JUDGE

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