

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

208

CRM-M-440 of 2022 (O&M)
Date of decision:23.03.2022

Satnam Singh Kalyana

... Petitioner

Vs.

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Aman Deep Saini, Advocate
for the petitioner.

Mr. Prabhjot Singh Walia, AAG, Punjab.

Mr. Balwant Singh, Advocate
for respondent No.2.

SUVIR SEHGAL, J. (Oral)

While granting interim protection to the petitioner, this Court
passed the following order on 17.01.2022:-

“Heard through video conferencing.

*Instant petition has been filed under Section 438 of the
Code of Criminal Procedure, 1973 seeking anticipatory bail in
FIR No.155 dated 30.11.2021, registered for offence under
Section 498-A of Indian Penal Code, 1860, at Police Station
Nurpur Bedi, Tehsil Anandpur Sahib, District Rupnagar
(Annexure P-1).*

*Counsel for the petitioner submits that the petitioner is a
Government servant and is posted as Warden in the District*

Jail, Rupnagar. He urges that FIR (Annexure P-1) is the result of marital discord between him and his wife. Counsel has filed an affidavit of the petitioner mentioning therein, the details of articles/ornaments in his possession, which he is prepared to return.

Affidavit is taken on record and its relevant extract is reproduced as under:-

“3. That the below mentioned articles/ornaments are left by the complainant in her matrimonial home and the petitioner has no objection in handing over the same to the complainant in the presence of the IO:-

i) Bed, Sofa, Table, dressing table, Almirah, Petti, Washing machine, Fridge, TV, Cooler, Mixer and juicer, utensils,

ii) A) Gold ring to Satnam Singh, watch,

B) Gold ring to Father-in-law,

C) Ear rings to Mother-in-law,

D) Gold ring to elder Maternal Uncle,

E) Gold ring to younger Maternal Uncle.

4. That at the time of marriage one gold chain was also given to Satnam Singh, however, as a matter of fact which is well in the knowledge of the complainant, the said gold chain was lost when parties were residing together and the same is not available with the petitioner.”

Notice of motion.

On asking of the Court, Mr. Prabhjot Singh Walia, AAG, Punjab accepts notice on behalf of the State-respondent No.1. Mr. Balwant Singh, Advocate has put in appearance and accepts notice on behalf of complainant-respondent No.2.

List on 15.03.2022.

The petitioner shall appear before the Investigating Officer at Police Station Nurpur Bedi, Tehsil Anandpur Sahib, District Rupnagar on 28.01.2022 at 10.00 A.M. and join the investigation and would appear as and when called for by the Investigating Officer. In the event of arrest, he shall be admitted to interim bail on his furnishing personal and surety bonds to the satisfaction of Arresting/Investigating Officer. He shall also abide by the conditions as specified under Section 438 (2) Cr.P.C.

The petitioner will return the dowry articles mentioned in the affidavit on the day he joins the investigation, which will be handed over to the complainant against proper receipt.”

Counsel for the petitioner submits that pursuant to the said order, petitioner has joined the investigation and has returned the articles mentioned by him, in para 3 of the affidavit reproduced above.

This fact has been verified by State counsel upon instructions from ASI Ram Kumar and he states that the petitioner is no longer required for custodial interrogation.

Counsel for the complainant has, however, placed reliance on receipt dated 07.04.2015 (Annexure R-1) to submit that gold chain weighing about 15 *tolas* is yet to be recovered.

Counsel for the petitioner has referred to the affidavit of the petitioner and submits that gold chain is not with him.

It has been held by Supreme Court in **Rajesh Sharma and others Vs. State of Uttar Pradesh and another (2018) 10 SCC 472** which has been followed in **Social Action Forum for Manav Adhikar and another Vs. Union of India, Ministry of Law and Justice and others (2018) 10 SCC 443** that recovery of disputed dowry articles would not come in the way of confirmation of interim bail. In particular, reference deserves to be made to the observations of this Court in **Anil Rajput and others Vs. State of Haryana 2010(6) RCR (Criminal) 1126**, which are reproduced as under:-

“The dispute between the parties is a matrimonial one. The petitioners have joined the investigation. The recoveries that may be due, are in the facts and circumstances liable to be inquired into. However, that would not now disentitle the petitioners to the concession of anticipatory bail. This is more so for the reason that if at some stage the parties agree to reconcile their differences then the fact that they had spent some time in custody would be a circumstance which may come in the way of amicably settling the matter.”

In view of the above facts, but without commenting on the merits of the case, the present petition is allowed and the order dated 17.01.2022 granting interim bail to the petitioner is made absolute, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure.

March 23, 2022

savita

(SUVIR SEHGAL)
JUDGE

<i>Whether Speaking/Reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>Yes/No</i>