

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

209

CRM-M-2197 of 2022
Date of decision:27.09.2022

Shubham

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Kanav Bansal, Advocate
for the petitioner.

Mr. Mohit Chaudhary, AAG, Punjab.

Ms. Puja Chopra, Advocate
for the complainant.

SUVIR SEHGAL, J. (Oral)

On 27.01.2022, this Court passed the following order in the
main petition:-

*“Instant petition has been filed under Section 438 of the
Code of Criminal Procedure, 1973 for grant of anticipatory
bail in FIR No.78 dated 16.10.2021, registered for offences
under Sections 406 and 498-A of Indian Penal Code, 1860, at
Police Station Women, District Patiala (Annexure P- 1).*

*Counsel for the petitioner submits that the petitioner was
married to the complainant on 16.10.2019 and due to marital
discord, a compromise dated 22.11.2020 (Annexure P-2) was
entered into between the parties and since then the*

complainant has been staying separately. He urges that the instant FIR has been registered after a delay of almost eleven months. By referring to the affidavit dated 24.01.2022, counsel submits that the petitioner is willing to return the articles as deposed by him in the affidavit, the relevant extract of which is reproduced as under:-

“3. That the Ring ceremony of the petitioner with the complainant Poonam Sharma was performed on dated 26.10.2017 at Ambala and thereafter, their marriage was solemnized on dated 16.01.2019 as per Hindu rites and ceremonies. The following articles were given by the complainant's side to the petitioner side.

i. Three Gold rings to the father, maternal uncle and to the present petitioner.

ii. One Gold Karra and one silver Anklet (Pajeb) to the petitioner.

iii. One Kitty Set and one Gold ring to the complainant.

iv. One set of ear rings to the mother of petitioner.

v. One refrigerator, one Motorcycle, one Sofa set, one Bed, one Almirah, one Dressing table, one

LCD, One Sewing machine, one Iron box (Petti) and some Utensils.

Out of the above articles, the complainant Poonam Sharma has taken away her kitty Set and Gold ring and

one set of ear rings which was given to the mother of petitioner in the presence of Panchayat while leaving the house on dated 22.11.2020.

4. That from the petitioner/boy's side, the following articles were given to the complainant's side:

i. One Mangalsutra to the complainant.

ii. One Gold ring to the complainant.

iii. One Gold Necklace/Set including ear rings to complainant.

All the aforesaid articles given by the petitioner's side have also been taken by the complainant and now the same in her possession.

5. That the petitioner is/was always ready and willing to return/handover all the above said remaining articles which are in his possession to the complainant, and he undertakes before this Hon'ble Court by way of this affidavit to return/handover all the remaining articles as and when directed by this Hon'ble Court.”

Notice of motion.

On asking of the Court, Mr. Prabhjot Singh Walia, AAG, Punjab accepts notice on behalf of the respondent-State. Upon instructions from ASI, Baljinder Singh, he submits that some gold and personal items are yet to be recovered from the petitioner.

List on 05.04.2022.

Meanwhile, the petitioner shall 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 the Arresting/Investigating Officer. He shall also abide by the conditions as specified under Section 438 (2) Cr.P.C.

Upon joining the investigation, the petitioner will return the articles mentioned by him in his affidavit dated 24.01.2022 to the Investigating Officer, which will be handed over to the complainant. This will be without prejudice to the right of defence of the petitioner.”

Upon instructions from ASI Jaswinder, State counsel submits that except for the items mentioned in para 3(iii) and (iv) of the affidavit, all other items have been recovered.

Counsel for the petitioner submits that it has been deposed by the petitioner, these items were taken by the complainant while leaving her matrimonial home on 22.11.2020.

However, without going into this disputed aspect, this Court is of the view that interest of both the sides can be secured by directing the petitioner to deposit some amount with the Trial Court.

In view of the above but without commenting upon the merits or demerits of the case, petition is allowed and order dated 27.01.2022

granting interim bail to the petitioner is made absolute subject to the conditions laid down in Section 438(2) Cr.P.C.

Petitioner will deposit a sum of Rs.40,000/- with the Area Magistrate within a period of six weeks from today. In case, the amount is deposited, it will be kept in a Fixed Deposit in Public Sector Bank for a period of six months with instructions for automatic renewal. The deposited amount alongwith interest accrued thereon, shall be paid to the party, who is found to be entitled to the same on conclusion of trial. The deposit of amount by the petitioner will not prejudice his right of defence.

It is made clear that in case the petitioner fails to make the deposit within the aforesaid period, this petition shall be treated to have been dismissed and the State will proceed, in accordance with law.

The articles, which have been recovered are stated to be lying in the police station. State is directed to return the same to the complainant within a period of one week from today.

September 27, 2022

savita

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes