

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

206

**CRM-M-6403-2021
Date of decision: 06.01.2022**

Manga SinghPetitioner
Versus
State of Punjab and anotherRespondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

(Through Video Conferencing)

Present : Mr. Digvijay Nagpal, Advocate, for the petitioner.

Mr. Luvinder Sofat, AAG, Punjab
for respondent No.1-State.

Mr. Yashpal Thakur, Advocate, for respondent No.2.

MANJARI NEHRU KAUL, J. (ORAL)

The present petition has been filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in case FIR No.4 dated 16.01.2021 under Sections 323, 406, 498-A and 506 IPC registered at Police Station Kheri Nodh Singh, District Fatehgarh Sahib.

Learned counsel for the petitioner submits that it is essentially due to the matrimonial differences between the parties, the FIR in question has been got registered against the petitioner wherein false allegations have been levelled against him by the complainant-wife of subjecting her to mental and physical harassment on account of dowry demand. Learned counsel further submits that in compliance of order dated 14.09.2021, the petitioner has joined investigation and cooperated with the investigating agency. He further submits that he is no longer in possession of any of the gold ornaments and other dowry articles as respondent No.2-complainant had taken all those articles with her when she left her matrimonial home.

Learned State counsel assisted by learned counsel for

respondent No.2 on instructions from ASI Kumar, does not dispute the factum of the petitioner having joined investigation. However, they submit that the petitioner has not cooperated with the investigating agency, as he has failed to get recovered some gold ornaments and other household articles given to him at the time of marriage by the family of the complainant.

On a pointed query put to the learned State counsel as to what was the demand of dowry and entrustment spelt out in the FIR in question, he has very fairly conceded that in the FIR no such demand much less entrustment stood reflected.

I have heard learned counsel for the parties and perused the material on record.

No doubt, in case the accused does not cooperate with the investigating agency, an adverse inference can be drawn against him, however, the State must spell out as to in what manner the accused has failed to cooperate with the investigating agency. Mere non-recovery of some disputed dowry items cannot by itself be a ground for denial of bail as has also been observed by the Hon'ble Supreme Court in case ***Writ Petition (Civil) No. 73 of 2015, titled as 'Social Action Forum for Manav Adhikar Vs. Union of India, Ministry of Law and Justice' decided on 14.09.2018.***

In the facts and circumstances as enumerated hereinabove, the instant petition is allowed and interim order dated 14.09.2021, is made absolute subject to the conditions laid down in Section 438(2) Cr.P.C.

06.01.2022

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(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*