

SHYAM LAL

...PETITIONER

VERSUS

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Raj Kapoor Malik, Advocate
for the petitioner.

Mr. Zorawar Singh Chauhan, DAG, Haryana.

Mr. Manvender Singh Dalal, Advocate
for the complainant.

VIVEK PURI, J. (ORAL)

Present petition is under Section 438 Cr.P.C. for seeking anticipatory bail to the petitioner in case FIR No. 318 dated 18.07.2019, registered under Sections 323/406/498-A/313 IPC, 1860 at Police Station City Kaithal, District Kaithal.

On 22.08.2019, the following order was passed:-

“Notice of motion for 21.11.2019.

Meanwhile, in the event of arrest, the petitioner be released on interim bail subject to his furnishing personal bonds and surety bonds to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall join the investigation as and when called upon to do so and cooperate with the Arresting/Investigating Officer and shall abide by the conditions as provided under Section 438(2) Cr.P.C.”

Learned counsel for the petitioner contends that the articles of *Istri Dhan* have been recovered during the investigation, the petitioner has joined the investigation in pursuance of interim directions issued by this Court and

furthermore, the MLR of the complainant only indicates that there was complaint

of pain without any visible mark of injury.

On instructions from ASI Rajesh, learned State counsel has submitted that the petitioner has joined the investigation, the articles of *Istri Dhan* have been recovered and his custodial interrogation is not required.

Learned counsel for the complainant has also acknowledged the fact of recovery of articles of *Istri Dhan*. However, he has opposed the bail application on the score that there are allegations with regard to the commission of offence under Section 313 Cr.P.C.

The copy of MLR indicates that there was no visible mark of injury on the person of the complainant. It will be a debatable and moot point during the course of trial as to whether any such abortion had occurred and if so on account of any act attributable to the petitioner. The petitioner has joined the investigation and his custodial interrogation is not required. As such, sufficient exceptional circumstances are made out to extend the concession of pre-arrest bail to the petitioner.

In view of the aforesaid submissions, the order dated 22.08.2019, granting interim bail to the petitioner is made absolute.

However, the petitioner shall abide by the conditions stipulated under Section 438(2) Cr.P.C.

The petition is allowed.

21.04.2022
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(VIVEK PURI)
JUDGE

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