

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

101

CRM-M-43018-2019

Date of Decision:05.01.2022

MANAK SINGH

...PETITIONER

VERSUS

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Arvind Galav, Advocate for the petitioner.

Mr. Saurav Khurana, DAG, Punjab.

Mr. Digvijay Nagpal, Advocate for the complainant.

SUVIR SEHGAL, J.(ORAL)

Heard through video conferencing.

Instant petition has been filed under Section 438 of Code of Criminal Procedure, 1973, seeking grant of concession of pre-arrest bail in case FIR No.53 dated 29.06.2019, registered under Sections 406 and 498-A of IPC, 1860, at Police Station Talwara, District Hoshiarpur, Annexure P-1.

FIR, Annexure P-1, has been registered on the basis of a complaint submitted by Heena, wife of the petitioner on the allegation that she was married with the petitioner on 14.10.2016 and numerous articles were given by way of gifts and dowry by her parents according to their capacity at the time of marriage. A daughter was born out of the wedlock on 23.10.2017. Allegation levelled in the FIR is that in February, 2017, her husband pressurized her to bring Rs.10,000/- from her father as expenses for going to Mumbai and thereafter she was harassed and physically assaulted by him. She has further alleged that her husband was being provoked by her in-laws. Allegation has also been levelled that her husband was in an

adulterous relationship and that the ornaments given at the time of the marriage were misappropriated by her husband and in-laws. She gave a complaint on 28.06.2018 with the Gram Panchayat of the village, but no action was taken despite the fact that she had been deserted by her husband.

Counsel for the petitioner submits that the petitioner has returned the dowry articles alleged to have been misappropriated by him as well as his parents. He has referred to the list of articles appended as Annexures P-4 and P-5 with the petition. Reference has also been made by the counsel to Para 07 of the petition, wherein it has been submitted that the said articles have been handed over by the police to the complainant on 07.09.2019.

State counsel has filed a short reply by way of an affidavit dated 10.12.2021 of Deputy Superintendent of Police, Sub-Division Dasuya, District Hoshiarpur, which is taken on record and submitted that though the petitioner has joined the investigation, recovery of one gold necklace, one pair of gold earrings and one ring is yet to be effected from him.

As per instructions of counsel for the complainant, besides the said articles, petitioner is not even paying the maintenance awarded in favour of the complainant-wife and has entered into a second marriage during the subsistence of first one.

Counsel for the parties have been heard.

By order dated 07.10.2019, this Court granted interim bail to the petitioner and the matter was referred to the Mediation and Conciliation Centre of this Court. Report from the Mediation Centre has been received to the effect that the mediation proceedings could not take place as the parties failed to appear. Petitioner has joined the investigation proceedings, which

have concluded and challan has been presented on 09.03.2021. Mere fact that some of the alleged dowry items have not been recovered from the petitioner is in itself not a ground to refuse confirmation of the interim bail granted to the petitioner as has been held by the Supreme Court in **Rajesh Sharma versus State of Uttar Pradesh** (2017) 3 RCR (Crl.) 836 and **Social Action Forum For Manav Adhikar and another versus Union of India and others** (2018) 10 SCC 443.

In view of the said facts, without commenting on the merits of the case, the present petition is allowed and the order dated 07.10.2019 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.

05.01.2022
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(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No