

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M No.54888 of 2019(O&M)

Date of Decision: 15.03.2022

Amit Sharma

..... Petitioner

V/s.

State of Punjab and Another

.....Respondents

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Tanvir Singh Grewal, Advocate for the petitioners.

Mr. Gourave Bhayyia Gilhotra, Advocate for the complainant.

(The case has been taken up through video conferencing on account of COVID-19 pandemic.)

Vivek Puri, J. (Oral)

The petitioner is seeking anticipatory bail in case bearing FIR No. 101 dated 30.10.2019 under Sections 406, 498-A, IPC, 1860 registered at Police Station Women Cell, Jalandhar. The FIR is registered on the basis of statement of the complainant raising allegations of misappropriation of articles of *ishtridhan* and cruelty meted out to her in the matrimonial house. The petitioner is the husband of the complainant.

On 20.12.2019, notice of motion was issued and the following order was passed:

“Notice of motion for 30.03.2020.

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 Investigating Officer and shall also abide by the conditions as provided under Section 438 (2) Cr.P.C.”

Subsequently, on 06.12.2021, the following order was passed:

“Learned counsel for the petitioner submits that in compliance to the order dated 27th October, 2021, the petitioner has joined investigation and cooperated with the investigation agency.

Learned State counsel assisted by learned counsel for the complainant does not dispute the factum of petitioner having joined investigation. He, however, submits that recovery of gold ornaments has still not been effected. He has further submitted that as per the investigating officer, the petitioner denied being in possession of the complainant's gold ornaments, since she had taken them along while leaving her matrimonial home. He has also submitted that the petitioner had produced some documentary evidence in the form of CCTV footage to support his aforementioned claim of the complainant having taken away all her gold ornaments with her.

Learned counsel for the complainant has disputed the factum of the complainant having taken along her jewellery. He has rather submitted that there were telephonic conversations between the petitioner and the complainant, wherein, the petitioner had admitted that some of her gold ornaments were still lying in the Bank locker.

On a pointed query put to learned State counsel qua the submissions made by learned counsel for the complainant, he has feigned ignorance about the same and seeks a short adjournment to verify the authenticity of the submissions so made by learned counsel for the complainant in Court today.

On his request, adjourned to 10.03.2022.

Interim order to continue till then.”

Learned counsel for the petitioner contends that in pursuance of the interim directions issued by the Court, the petitioner has joined the investigation, the petitioner has instituted a petition under Section 9 of the Hindu Marriage Act, 1955 for restitution of conjugal rights and the present FIR is a counter blast to the same. It has been further stated that the complainant while leaving the matrimonial house, carried the golden jewellery with her.

Learned State counsel, on the instructions of ASI-Shish Pal Singh, has reasserted the contentions as reproduced in the order dated 06.12.2021. She has further affirmed the fact that the petitioner has joined the investigation and

cooperated in the investigation against him. It has been further stated that the custodial interrogation is not required and furthermore, there is some documentary evidence collected during the course of investigation pertaining to CCTV camera footage to substantiate the version that the complainant took her golden jewellery while leaving the matrimonial house.

However, the learned counsel for the complainant has opposed the bail application on the score that the recovery of golden jewellery is yet to be effected.

It may be mentioned here that the petitioner has already instituted a petition under Section 9 of the Hindu Marriage Act, 1955 for restitution of conjugal rights and the FIR has been registered subsequently. Moreover, the petitioner has joined the investigation, cooperated with the Investigating Agency and his custodial interrogation is not required. Furthermore, the controversy as to whether any golden jewellery is still retained by the petitioner, will be a debatable point during the course of the trial.

Keeping in view the entire circumstances, sufficient grounds are made out to extend the concession of anticipatory bail to the petitioner. Accordingly, order dated 20.12.2019, vide which the petitioner has been granted interim bail, is made absolute.

Petition is allowed.

15th March, 2022

Sonia Puri

(VIVEK PURI)
JUDGE

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