

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

(204)

CRM-M-1964-2020 (O&M).
Date of Decision:-17.03.2023.

Davinder Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ALOK JAIN

Present: Mr. Harsh Chopra, Advocate for the petitioner.

Mr. Arun Gupta, AAG, Punjab.

Mr. Satinder Kaur, Advocate for the complainant.

ALOK JAIN, J. (Oral)

Prayer in this petition under Section 438 of Cr.P.C. is for issuance of directions to S.H.O/I.O/Arresting Officer of Police Station Women Cell, Jalandhar, Distirct Jalandhar/Illaqa Magistrate to release the petitioner on bail in the event of his arrest in case FIR No.130 dated 27.12.2019 under Sections 406/498-A of IPC, registered at Police Station Women Cell, Jalandhar, District Jalandhar.

Mr. Harsh Chopra, Advocate, has appeared on behalf of the petitioner and filed his vakalatnama with no objection from the previous counsel. The same is taken on record.

Vide order dated 09.08.2021, the petitioner was granted the concession of interim bail and was directed to appear before the Investigating Officer. Since then, the petitioner has been continuously

CRM-M-1964-2020 (O&M)

joining the investigation and the various orders passed thereof to rejoin the investigation have also been complied with.

Learned counsel for the petitioner submits that all the recoveries which the petitioner could get effected, have already been done and relies upon the status report and the list of articles already recovered.

Learned State counsel, on instructions from ASI Rajesh Kumar, submits that although the petitioner has joined the investigation and certain recoveries have been made, however, brings to notice of this Court two facts; that the gold ornaments are not recovered in totality and out of approximately 17 *tolas* of gold alleged by the complainant, the recovery has been made qua only 10-11 *tolas* of gold. However, he submits that one of the bill given by the complainant was cross-checked and the owner of the said jewellery shop denied the issuance of any such bill to the complainant and, therefore, the authenticity of the claims raised qua the recoveries in the FIR, cannot be relied upon.

Per contra, learned counsel for the complainant has vehemently opposed the petition on the premises that the petitioner is not cooperating in the investigation and, in fact, the Investigating Agency is also not going ahead with the investigation on the documents and information being supplied by the complainant. She further submits that due to the high-handedness of the petitioner, the complainant-wife has lost her job and is not even able to sustain herself. However, on a specific query put by this Court with regard to filing of any petition under Section 125 of Cr.P.C., learned counsel for the petitioner submits that the same would be an exercise in futility, as the petitioner is showing his monthly income to be only around ₹ 8,000/-.

CRM-M-1964-2020 (O&M)

Having heard the counsel for the parties and the allegations and counter-allegations raised by the complainant which are a matter of trial and the fact that the petitioner having not misused the concession of interim bail and having joined the investigation thoroughly, deserves the concession of anticipatory bail.

Moreso, the Hon'ble Supreme Court in judgment rendered in the case of **Rajesh Sharma and others Vs. State of U.P. and another**, in **Criminal Appeal No.1265 of 2017** decided on 27.07.2017, has clearly held that recovery of disputed dowry items may not itself be a ground for refusal of bail.

Learned counsel for the petitioner has also relied upon judgment of Delhi High Court in **Pooran Singh Vs. State of Delhi, 2022 (1) R.C.R. (Criminal) 503**, wherein, it has been held that non-recovery of Istridhan alone cannot be a reason to deny the anticipatory bail.

In the present case, the petitioner, vide order dated 17.01.2020, was granted interim relief whereby his arrest was stayed. Subsequently, vide order dated 09.08.2021, the petitioner was directed to join investigation. Subsequently, the petitioner has been directed to re-join investigation on 03.02.2022, 31.03.2022 and 05.01.2023, which the petitioner has duly joined.

In view of the above proposition of law and facts of present case, wherein, except for 6 *tolas* of gold out of 17 *tolas* has not been recovered and the conduct of the petitioner repeatedly joining the investigation, the present petition deserves to be allowed.

Accordingly, the present petition is allowed and the order dated **09.08.2021** granting interim anticipatory bail to the petitioner, is

CRM-M-1964-2020 (O&M)

made absolute. However, the petitioner shall join the investigation as and when called upon to do so by the Investigating Agency and shall abide by the conditions of Section 438 (2) Cr.P.C.

However, nothing stated above shall be construed as a final expression of opinion on the merits of the case.

Pending miscellaneous applications shall also stand disposed of.

(ALOK JAIN)
JUDGE

March 17, 2023.
Sandeep

Whether speaking/reasoned:-	Yes/No
Whether Reportable:-	Yes/No