

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

206

CRM-M-4048-2024(O&M)
Date of Decision: 16.05.2024

GAGAN PARKASH

....Petitioner

VERSUS

STATE OF PUNJAB AND ANR.

....Respondents

CORAM : HON’BLE MRS. JUSTICE MANISHA BATRA

Present : Mr. S.S. Nain, Advocate for the petitioner.

Ms. Ruchika Sabherwal, Sr. DAG, Punjab.

Mr. K.P. Singh, Advocate for respondent no.2.

MANISHA BATRA, J. (Oral)

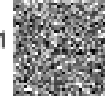
Through the instant petition under Section 438 of Code of Criminal Procedure, 1973, the petitioner seeks pre-arrest bail in case FIR No. 96 dated 25.11.2023 registered under Sections 406 and 498-A of Indian Penal Code, 1860, at Police Station Women, Patiala, District Patiala.

2. Memorandum of Appearance has been filed on behalf of respondent no. 2.

3. Vide order dated 25.01.2024 passed by this Court, the petitioner was released on interim bail and was directed to join investigation. Order dated 25.01.2024 reads as under:-

“CRM-M-4048-2024

The present petition has been filed under Section 438 of Cr.P.C. by the petitioner seeking pre-arrest bail in case arising out of FIR No.96 dated 25.11.2023 registered under Sections 406 and 498-A of IPC at Police Station Women,



Patiala, District Patiala on the basis of written complaint filed by the complainant who is the wife of the present petitioner making allegations of her being subjected to cruelty by the petitioner on account of demand of dowry and money and her physical and mental harassment by him on that account.

Learned counsel for the petitioner has submitted that the allegations levelled against him are false and fabricated. Complainant-wife has left his company in 2022 along with her children and he has been maintaining them by transferring money regularly and is willing to rehabilitate his wife and children.

Notice of motion for 15.03.2024.

On asking of the Court, Ms. Ruchika Sabherwal, DAG, Punjab, accepts notice on behalf of respondent-State. She seeks some time to file status report.

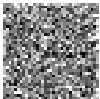
On oral request of learned counsel for the petitioner the complainant is ordered to be impleaded as respondent No.2. Amended memo of parties is however ordered to be taken on record.

On filing of process, let notice to respondent No.2 be issued for the date fixed.

Dasti as well.

In the meantime, the petitioner is directed to appear before the Investigating/Arresting Officer to join investigation within one week or as and when required subsequently. In the event of his arrest, the Investigating/Arresting Officer shall release the petitioner on interim bail subject to his/her satisfaction. The petitioner shall also abide by the conditions as envisaged under Section 438(2) Cr.P.C.

4. Learned State counsel has submitted that the petitioner has joined the investigation on 17.02.2023 and also submits that recovery of



gold ornaments weighing five tolas has been effected from the petitioner but two gold ear-rings and three gold rings, which were given to the relatives of the petitioner, have not been got recovered yet. These articles cannot be assumed to be a dowry articles or *istridhan* of the petitioner. They were apparently given as a gift. Even otherwise mere non recovery of some disputed dowry articles cannot by itself be a ground for denial of bail as has also been observed by the Delhi High Court in cases titled as ‘*Jagdish Thakkar vs. State of Delhi*’, 1992 (3) CCR 2764 and ‘*Pooran Singh vs. State of Delhi*’, 2022(1) RCR (Criminal) 503. Further, his custodial interrogation is no more required. No useful purpose will be served by detaining him in custody. In view of the said facts but without commenting on the merits of the case, the present petition is allowed and the order dated 25.01.2024 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.

16.05.2024
Deepak Patwal

(MANISHA BATRA)
JUDGE

- | | | |
|----|---------------------------|--------|
| 1. | Whether speaking/reasoned | Yes/No |
| 2. | Whether reportable | Yes/No |