

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M No.55336 of 2022
Date of decision: 18.01.2024

Rachit Kaushal

... Petitioner

Vs.

State of Punjab and another

... Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Harmandeep Singh Saini, Advocate,
for the petitioner.

Mr. P.S. Pandher, AAG, Punjab.

Mr. P.S. Ahluwalia, Advocate,
for the complainant.

MANISHA BATRA, J. (Oral)

1. The present petition under Section 438 of Code of Criminal Procedure has been filed by the petitioner seeking pre-arrest bail in case FIR No.125 dated 13.10.2022 registered under Sections 406 and 498-A of IPC at Police Station PS Women, District Ludhiana.

2. The facts relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on the basis of the written complaint filed by the complainant Megha Sharma alleging that she got married with the petitioner on 29.06.2020 during the outbreak of Covid 19. Just before the marriage, the petitioner and his family members started raising demand of expensive branded clothes, gold ornaments, gifts and cash etc. Huge amount of money was spent by her family on

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Roka ceremony as well as the marriage ceremony and on asking of the family of the petitioner, several articles of gold jewellery were given to the petitioner, his family members as well as relatives and cash was also given. The parents of the complainant were made to spend huge amount of money for lodging of guests and family members of the petitioner in hotels at the time of marriage as per the demand raised by them. It was alleged that the petitioner and his family members were still not satisfied. After her marriage, all the jewellery and gifts etc. which were given to the complainant were tactfully kept by her mother-in-law with her. Soon after the marriage, they started mistreating her and raising demands of money. She was taunted and harassed physically as well as mentally. She was given taunts on account of her being of short height and wheatish complexion. She had become pregnant in the month of February 2021 and was told that it would not be auspicious if she delivered a girl child. She was not allowed to meet her own family members. On 11.07.2021, she was made to leave her matrimonial house. After registration of FIR, investigation proceedings have been initiated and are going on.

3. Vide order dated 30.11.2022 the petitioner was directed to join the investigation.

4. Status report has been submitted by the respondent-State as per which the petitioner has joined investigation as on 05.11.2022 and 10.12.2022. Learned State counsel as well as learned counsel for the complainant have, however, submitted that the gold and diamond jewellery of the respondent-complainant which is her istridhan has been

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kept by the petitioner and is not returned. It is also submitted that list of ornaments which were handed over to the family of the petitioner and himself and which was istridhan of the complainant had been prepared but, very clearly, the present petitioner had got made some similar looking ornaments of much lesser weight to defraud the complainant and with intent to convert the same to own use. Therefore, it is argued by them that he does not deserve to be given concession of anticipatory bail. Along with the status report, a memo Annexure R-1/T has been annexed to show that some gold/diamond ornaments which were given to the petitioner and his family members were weighing much more than the ones which had been given by him back to the complainant.

5. I have heard learned counsel for the petitioner as well as learned State counsel assisted by learned counsel for the complainant at considerable length and have gone through the record.

6. The petitioner who is husband of respondent No.2 is alleged to have subjected her to cruelty on account of demand of dowry and is further alleged to have misappropriated her dowry articles. The allegation that the gold/diamond articles as returned to the complainant are of lesser weight cannot be looked into by this Court and it is for the trial Court to decide on the basis of the evidence to be produced before it as to whether a case of misappropriation of any property belonging to the complainant has been made out or not. Suffice at this stage to say that the custodial interrogation of the petitioner is no more required. As such, no useful purpose would be served by detaining him in custody as his presence can

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be secured even otherwise also. Keeping in view the nature of the subject offences, the quantum of sentence which the conviction may entail, further the fact that mere non-recovery of some disputed dowry articles cannot by itself be a ground for denial of the bail as has also been observed by Hon’ble Supreme Court in case **Writ Petition (Civil) No.73 of 2015**, titled as ‘**Social Action Forum for Manav Adhikar v. Union of India, Ministry of Law and Justice**’ decided on 14.09.2018 and by Delhi High Court in **Pooran Singh v. State of Delhi**, 2022 (1) R.C.R. (Criminal) 503 wherein it was held that recovery of istridhan/dowry was no ground to arrest a person under Section 498-A of IPC and the attendant facts and circumstances of the case, I am of the considered opinion that the petition deserves to be allowed. Hence, the same is allowed and the order dated 30.11.2022 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.

18.01.2024
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(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No