



208

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

**CRM-M-11808-2020
Date of Decision: 20.02.2025**

Sunita Mahajan and another

..... Petitioner

Versus

State of U.T., Chandigarh

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Gaurav Chopra, Senior Advocate with
Mr. Mohit Giri, Advocate for the petitioner.

Mr. P.S. Paul, Addl. P.P, U.T., Chandigarh.

Mr. Suvir Sidhu, Advocate for the complainant.

JASGURPREET SINGH PURI, J. (ORAL)

1. The present petition has been filed under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail to the petitioner in case FIR No.1 dated 03.01.2020, under Sections 406 & 498-A IPC, registered at Women Police Station, Sector-17, Chandigarh.

2. Learned Senior Counsel appearing on behalf of the petitioner submitted that the present FIR was lodged by the complainant/wife against the petitioner on 03.01.2020 vide Annexure P-1 and petitioner No.1 herein is the mother-in-law of the age of 75 years and petitioner No.2 is the husband of the age of 43 years at the time of filing of the present petition. He further submitted that after the matrimonial dispute arose between the parties, an FIR was lodged and subsequently, the present petition for grant of anticipatory bail was filed wherein on 20.03.2020, when notice of motion was issued, it was so directed that till the next date of hearing, arrest of the



petitioners shall remain stayed but thereafter, the petitioners were not joined in the investigation process by the investigating agency but later on by way of an order dated 30.05.2023, specific directions were issued in this regard and submitted that both the petitioners have repeatedly joined the investigation and they have also fully co-operated with the investigation process.

3. Learned Senior Counsel further submitted that the present FIR is of the year 2020 and the matter is still at the investigation stage and even during the pendency of the present petition, the matter was sent to the Mediation and Conciliation Centre of this Court but it failed and rather for a number of times, efforts were made to make the mediation effective but it was not fruitful. He also submitted that so far as return of some of the dowry articles/*Stridhan* which were given at the time of marriage are concerned, there was another litigation between the parties which was filed by the complainant/wife seeking protection vide CWP-13884-2019 and in that, some directions were issued vide Annexure P-12 and after the aforesaid directions were issued, the complainant/wife filed a contempt petition bearing COCP-2054-2019 wherein a Local Commissioner was appointed who is an Advocate of this Court with regard to dowry articles/*Stridhan* and as per his report dated 12.06.2019, which has been annexed as Annexure P-14, it was so stated by him that the complainant/wife, who is the petitioner in that contempt petition, has collected the articles which were lying in the house of the husband/petitioner No.2 and the list of the articles was prepared at the spot and both the parties and the police officials have signed the same.

The aforesaid list of articles was also attached with the report as Annexure



A-3. He submitted that the aforesaid list of articles (Annexure A-3) is also attached at Page No.126-128 of the present petition, which is a long list of number of articles including gold jewellery, clothes etc. which as per the report of Local Commissioner have been returned but the complainant has alleged that some of the articles have still not been returned which are valuable articles. Learned Senior Counsel submitted that once it is on record that the articles have been returned and the petitioners have already joined the investigation and rather unfortunately, the mediation has also failed, then both the petitioners may be considered for grant of anticipatory bail.

4. On the other hand, Mr. P.S. Paul, learned Addl. P.P, U.T., Chandigarh has submitted that so far as joining the investigation of the petitioners is concerned, he has sought specific instructions from ASI Mansi Rani, who is present in Court today that both the petitioners have joined the investigation. He submitted that however some of the articles have not been returned by the petitioners to the complainant/wife.

5. Mr. Suvir Sidhu, learned counsel for the complainant/wife has opposed the grant of anticipatory bail to the petitioners on the ground that the petitioners have not co-operated with the investigation process because the entire dowry articles/*Stridhan* have not been returned by the petitioners to the complainant/wife and rather at the time when the Local Commissioner visited the house of the petitioners along with the complainant, his conduct was not proper and petitioner No.2/husband used bad language which is evident from the affidavit which was filed by the Local Commissioner and the same has also been attached at Annexure P-15 and submitted that although the mediation has failed, but considering the aforesaid facts, the



petitioners do not deserve the concession of anticipatory bail.

6. I have heard the learned counsels for the parties.

7. The FIR in the present case is of the year 2020 and the present petition for grant of anticipatory bail is also of the year 2020, which was filed almost 5 years ago. The case is still at the investigation stage. The matter was referred to the Mediation and Conciliation Centre of this Court which has failed and as per learned counsels for the parties, repeated efforts were made for re-conciliation but no fruitful outcome could come out of the same. So far as the joining of the investigation of both the petitioners is concerned, even learned State Counsel has also stated on instructions that the petitioners have joined the investigation. However, the only issue involved in the present case for the purpose of consideration as to whether the petitioners should be granted anticipatory bail or not, is that as per learned State Counsel and as per learned counsel for the complainant, some of the dowry articles/*Stridhan* have not been returned to the complainant/wife. On the other hand, learned Senior Counsel appearing on behalf of the petitioners has referred to Annexure P-14 which is a report of the Local Commissioner, which was filed in some other petition which the complainant/wife filed a petition for grant of protection out of which a contempt petition arose and as per the report of Local Commissioner, some of the articles were returned and the same has been attached with the report (Annexure P-14) as Annexure A-3 which is at Page No.126 of the present petition. The relevant portion of the aforesaid report of the Local Commissioner is reproduced as under:-

“2. That in view of the order, I informed both the parties



to be present in the house of the respondent on 12.06.2019 at about 3.00 pm and also requested the concerned police station to send an official at the same time. The concerned police station sent Mohan Singh, CHG, 1109 at 3.00 pm to assist me to enable the petitioner to collect her belongings from her matrimonial home.

3. That I have reached at the house of the respondent at about 3.00 pm, where both the parties and a police official were present. The petitioner gave a list of her belongings to me and thereafter, I along with both the parties and a police official entered into the house of the respondent and the petitioner collected her belongings. A copy of the list of the articles given by the petitioner is attached as Annexure A-2.

4. That the petitioner has collected the articles which were lying in the house of the respondent and a list of articles is prepared at the spot and both the parties have signed the same and the police official has also signed the same. A copy of the list of collected articles is attached as Annexure A-3.”

8. The long list of collected articles/*Stridhan* (Annexure A-3) which is so referred by the Local Commissioner which contained number of articles including gold jewellery. However, as per learned State Counsel and learned counsel for the complainant, some of the dowry articles/*Stridhan* have not been returned to the complainant/wife.

9. The Court while considering the petition for grant of anticipatory bail has to strike a balance between the liberty of an individual on one hand and on the other hand, the role and the allegations against the petitioners. The FIR in the present case is of the year 2020 and even the



present petition is pending for five years. Efforts were made for reconciliation and mediation which failed. As per learned State Counsel, the petitioners have joined the investigation. Some of the dowry articles/*Stridhan* have been returned and some have not been returned. This Court after hearing learned counsels for the parties, is of the considered view that liberty of the petitioners, especially petitioner No.1, who is the mother-in-law of the age of 75 years, will be a dominant factor for the purpose of considering prayer for grant of anticipatory bail. Non-return of some of the dowry articles/*Stridhan* will only be a factor which is subservient to the aforesaid dominant factor. While striking a balance between the aforesaid two things and in view of the facts and circumstances of the present case, the liberty of both the petitioners will prevail over the argument raised by learned State Counsel and counsel for the complainant. Consequently, the present petition is allowed and the orders dated 20.03.2020 and 30.05.2023, whereby the petitioners have been granted interim bail, are hereby made absolute. It is further directed that the petitioners shall abide by the conditions as provided under Section 438(2) Cr.P.C.

10. However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is only meant for the purpose of decision of present petition.

20.02.2025

Bhumika

(JASGURPREET SINGH PURI)
JUDGE

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