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

CRM-M-38938-2023 (O&M)

Date of Decision:07.04.2025

Ashrut Jain

....Petitioner(s)

Versus

State of Punjab and another

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Puneet Jindal, Senior Advocate with
Mr. Puneet Bhushan, Advocate and
Ms. Malvi Aggarwal, Advocate, for the petitioner.

Mr.P.S. Bhandari, AAG. Punjab.

Mr. Rajeev Kewatra, Advocate, for respondent No.2.

JASGURPREET SINGH PURI, J. (Oral)**CRM-13931-2025**

The present application has been filed for placing on record
Annexure P-9 and P-10.

For the reasons recorded in the application, the same is allowed.
Annexure P-9 and P-10 are taken on record subject to all just exceptions.

Main case

1. The present petition has been filed under Section 438 of the
Code of Criminal Procedure for the grant of anticipatory bail to the
petitioner in FIR No.73 dated 29.04.2023, under Sections 406 and 498-A
IPC, registered at Police Station City Phagwara, District Kapurthala.



2. Mr. Puneet Jindal, learned Senior Advocate appearing on behalf of the petitioner with Mr. Puneet Bhushan, Advocate submitted that there was a dispute between petitioner and respondent No.2 who is his wife and consequent upon the same, an FIR was registered in the present case under Sections 406 and 498-A IPC. He submitted that general and vague allegations were made against the petitioner and his family members that some gold items were entrusted with the family of the petitioner but the same have not been returned back. He submitted that after the notice of motion was issued in this case, an interim protection was granted and later on, the matter was sent to the Mediation and Conciliation Centre of this Court and thereafter, the mediation had taken place but unfortunately, the same failed. He further submitted that the petitioner has now joined investigation and he has fully cooperated with the investigation process and therefore, the interim anticipatory bail which was granted to the petitioner may be made absolute. He also submitted that although the allegations against the petitioner were pertaining to non-return of the jewellery items but in fact all the jewellery items have been returned to the complainant-wife. He also submitted that mere fact even if assumingly for the sake of arguments, the jewellery items have not been returned, the same itself cannot become a ground for denial of anticipatory bail in view of the judgment of Hon'ble Supreme Court in ***Social Action Forum for Manav Adhikar Versus Union of India Ministry of Law and Justice and others, 2018(10) SCC 443.***

3. On the other hand, Mr.P.S. Bhandari, learned AAG. Punjab has submitted on instructions from ASI Jaswant Singh that in pursuance of the order passed by this Court on 13.03.2024, the petitioner has already joined



investigation and he has fully cooperated with the investigation process and he is not required for custodial interrogation. He however submitted that as per the complainant, some of the gold items have not been returned.

4. Learned counsel appearing on behalf of respondent No.2 /complainant submitted that mere fact that the petitioner has joined the investigation does not entitle the petitioner for the grant of anticipatory bail because the gold items which were entrusted to the petitioner and his family members have not been returned and therefore, the petitioner does not deserve the concession of anticipatory bail.

5. I have heard the learned counsel for the parties.

6. The matter was sent to the Mediation and Conciliation Centre of this Court as per learned counsel for the parties but it unfortunately failed. The petitioner was granted interim protection by this Court on 13.03.2024 which is more than 1 year ago and thereafter, as per learned State counsel, he has joined investigation and he has cooperated with the investigation process. The only question that would arise for consideration would be whether the petitioner can be denied anticipatory bail on the ground that jewellery items have not been returned as per the allegations made by the complainant. This Court is of the considered view that keeping in view the aforesaid facts and circumstances of the present case where even mediation has failed, the mere fact that some of the jewellery items have not been returned, if at all itself cannot become a ground for denial of anticipatory bail to the petitioner because the anticipatory bail is a part of freedom which is so enshrined in the Constitution of India and the same can be deprived only for cogent reasons. For the purpose of considering the grant of



anticipatory bail a balance has to be struck by the Court between the allegations against the accused person and the liberty which he may enjoy. In the present case, the facts and circumstances suggest that the petitioner has already joined investigation but it is the case of the learned Senior Counsel for the petitioner that the jewellery articles have been returned back to the complainant, whereas on the other hand, it is the case of the learned counsel for the complainant that the same have not been returned. This aspect can be dealt with by way of adducing evidence at the time of trial and the liberty of the petitioner cannot be curtailed because of the aforesaid reason and therefore, this Court is of the considered view that the liberty of the petitioner shall have an edge over the aforesaid allegations made by the learned counsel for the complainant that some of the jewellery items have not been returned.

7. Consequently, the present petition is allowed and the order dated 13.03.2024 is hereby made absolute.

07.04.2025
rakesh

(JASGURPREET SINGH PURI)
JUDGE

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