

Kuldeep Singh vs. State

**IN THE COURT OF SHRI AVTAR SINGH BARDA,
ADDITIONAL SESSIONS JUDGE, SAS NAGAR
UNIQUE IDENTIFICATION CODE NO. (PB0159)**

CNR no. PBSA010081032021
Bail application no.287/29.09.2021
CIS no. BA 2343-2021
Date of Order: 25.10.2021

Kuldeep Singh, aged 42 years, son of Sh. Avtar Singh, r/o House no.2216,
Sector 15, Chandigarh.

..... Bail applicant.

Vs.

State of Punjab

.... Respondent

F.I.R.No 51 dated 14.09.2021
U/ss 406,498A,506, 120B IPC
PS NRI Distt. SAS Nagar.

BAIL APPLICATION U/S 438 CR.P.C.

Present: Mr. Sudesh Kr. Pandey Advocate learned counsel for
accused/applicant.
Ms. Harpreet Kaur , Addl. PP for State .

1. ASI Balwinder Singh has come present today in the
court and suffered statement that he is the investigating officer of the
present case. Applicant-accused Kuldeep Singh has joined the
investigation on 18.10.2021 but he is not cooperating in the
investigation and recovery is still pending and he is required for

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custodial interrogation.

2. Learned counsel for the applicant/accused has argued that accused has been falsely implicated in the present case . The police has registered a false case against him . The story mentioned in the FIR is totally false, baseless and concocted one. In fact, no such cruelty as alleged by the complainant in her complaint committed by the applicant/accused. He has further argued that there is no question to get the articles i.e. gold, ornaments, cash recovered as alleged by the prosecution because no single dowry articles was given or entrusted to the applicant/accused. Learned counsel for bail applicant has vehemently argued that in the complaint, it is no where mentioned that the parents of the complainant gave gold ornaments to Avtar Singh (father-in-law), Gurcharan Kaur(mother-in-law), Sukhbir Singh(husband), Kuldeep Singh (bother-in-law) and other relatives as per the demands. Further, learned counsel for bail applicant has argued that the marriage of the complainant had been solemnized about 20 years and this present complaint has been filed after 20 years which itself is suspicious in nature.He has vehemently argued that neither the children nor the grand children or others have any right, title or interest in the property, as alleged by the complainant. Avtar Singh co-accused being exclusive owner has full right to sell, mortgage and relinquish his title in favour of the person of his choice. All the properties are self acquired properties of co-accused Avtar Singh. Therefore, the present FIR is abuse of process of law. Learned

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counsel for bail applicant during the course of arguments has drawn the attention of this court towards photo copy of family settlement deed Annexure P2 which was got executed between applicant/accused, husband of complainant and Avtar Singh father in law of complainant and perusal of this family settlement reveals that as per clause 3 to 6 the properties i.e. moveable or immovable have been divided with the mutual consent by father-in-law of complainant namely Avtar Singh and as per clause no. 6, it has been specifically mentioned that House no. 2216, Sector 15 C, Chandigarh , Agriculture lands, Booth no.6, Sector 26, Chandigarh, Showroom no. 88, Sector 40, Chandigarh are self acquired properties of co-accused Avtar Singh and no body has any right over the said properties. He has further argued that the husband of complainant is also signatory to the said family settlement deed. Learned counsel for bail applicant has further argued that after the settlement, complainant Kamaljeet Kaur started her own business under the name and style M/S Agam Travels as proprietor out of the share of Car received by Sh. Sukhbir Singh husband of complainant and in this regard, he has drawn attention of this court towards copy of affidavit Annexure P4 executed by Sukhbir Singh husband of complainant. Learned counsel for bail applicant has further argued that accused has already been admitted to interim bail and in compliance of the aforesaid order, he has joined and co-operated in the investigation. Learned counsel for bail applicant has further

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argued that accused has already been admitted to interim bail and in compliance of the aforesaid order, he has joined and co-operated in the investigation. In last, prayer has been made for confirming the interim anticipatory bail order.

3. On the other hand, learned Addl.P.P for the State has vehemently opposed the arguments advanced by learned counsel for bail applicant and argued that accused/applicant being brother in law of complainant is harassing the complainant for want of more dowry and specific entrustment of dowry articles have been made by them. Further, she argued that the dowry articles including gold articles are not yet recovered from accused/applicant and he is also required for the purposes of investigation. She has further argued that bail applicant in connivance with co-accused deliberately sold the share of children of complainant in order to harass the complainant. Moreover, Investigating Officer has also suffered statement today in the court that bail applicant has joined the investigation but he is not co-operating with the investigation and the custodial interrogation of bail applicant is required for recovery of gold ornaments and further investigation of this case. It is further argued by Addl. PP for State that even though, accused has joined the investigation but in view of seriousness of offence, he is not entitled to anticipatory bail and prayed for dismissal of the anticipatory bail application.

4. I have heard the arguments advanced by learned counsel for accused/applicants, learned Addl.P.P for the State and also perused the record pertaining to this case carefully.

(Avtar Singh Barda), ASJ, SAS Nagar
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5 From the perusal of police file and statement got recorded by ASI Balwinder Singh, it revealed that the present accused/applicant has joined the investigation on 18.10.2021 in compliance of order dated 12.10.2021. ASI Balwinder Singh, no. 96/RR, PS NRI Mohali has also suffered statement today in the court to the effect that applicant-accused has joined the investigation on 18.10.2021 but he did not co-operate with the investigation and recovery is still pending. Custodial interrogation of applicant-accused is required for recovery of above said articles .

6. From the perusal of file, it further revealed that in this case prosecution has been set into motion on the statement of complainant Kamaljeet Kaur against accused/applicant namely Kuldeep Singh who is brother in law of complainant. The perusal of file further shows that instant FIR has been got registered after the period of about 19 years after solemnization of marriage i.e. in the year 2002 and no specific attribution has been made against the applicant-accused for seeking more dowry from the complainant after solemnization of their marriage in the year 2002.

7. So far as the recovery of dowry articles is concerned,, the provisions of section 406 and 498-A of the Indian Penal Code are not meant for said purposes. Reference can be made to **Jagdish Thakkar Vs. State of Delhi** cited as **1992(3) CCR page 2764** wherein Hon'ble High Court has held that in case under sections 406 and 498A of the Indian Penal Code anticipatory bail cannot be denied only on the ground

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that jewellery and dowry articles were not recovered. Further it has been held that provisions of section 406 and 498A of the Indian Penal Code are not meant for recovery of jewellery and dowry articles. Further it has been specifically held that wife(complainant) if so chooses , she can move to Civil court for the recovery of said articles.

8 In Anil Rajput vs. State of Haryana cited as 2010(6) RCR(Criminal) 1126 Hon'ble Punjab and Haryana High Court has held that during pendency of the anticipatory bail petition in matrimonial dispute case, petitioner joined the investigations and inspite of the fact that recovery was yet to be effected, would not dis- entitle petitioner/accused to the concession of anticipatory bail.

9. Hon'ble Supreme court in matter of Sidha Ram Sittangappa Mhetre Versus State of Maharashtra 2011 (1) RCR (Criminal) 126 laid down that arrest should be the last option and it should be restricted to these exceptional cases where arrest of the accused is imperative in the facts and circumstances of the case.

10. Hon'ble Punjab and Haryana High Court in case titled as Prit Pal Singh vs. State of Punjab and another 2014(5) R.C.R. (Criminal) 771, it has been held as accused had joined the investigation and certain articles of dowry have already been recovered, thus, anticipatory bail could not be refused on the ground that some articles were still to be recovered- proceedings under section 406, 498A are not meant for recovery of jewellery and dowry articles, complainant if so chooses can move Civil Court for recovery of said articles. Therefore, bail

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application allowed.

11. Further, Hon'ble Punjab & Haryana High Court in case titled as **Harpreet Kaur Vs. State of Punjab & Anr. 2017(4) RCR (Criminal) 307** has held that non recovery of articles is not a valid ground for cancellation of bail and it is a matter of trial and it will have to be proved as to how much dowry was given and in whose custody the same were.

12. On the other hand, no contrary view has been produced by learned Addl.P.P for the State.

13. Therefore, without discussing any facts of the case on merits but keeping in view the fact that accused/applicant has already joined the investigation as well as the ratio of judgments cited herein above, present bail application for grant of anticipatory bail to accused/applicant is hereby allowed and interim bail granted to accused/applicant vide order dated 12.10.2021 is made absolute subject to the following conditions:-

- (i) That accused/applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;
- (ii) That accused/applicant shall not leave the country without prior permission of the court.

14. Accordingly, the bail application stands disposed of. Concerned Ahlmad of this court is directed to return the police record/file to the concerned official or Naib court of this court on proper verification

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and identification against proper receipt. Copy of this order be forwarded to the quarter concerned, whereas file be consigned to record room.

Pronounced:25.10.2021

Jyotsna

Stenographer I

(Avtar Singh Barda)
Additional Sessions Judge,
SAS Nagar (Mohali)
UID NO. PB0159

This order has been directly dictated on the computer.

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Present: Mr. Sudesh Kr. Pandey Advocate learned counsel for
accused/applicant.
Ms. Harpreet Kaur , Addl. PP for State .

Statement of ASI Balwinder Singh recorded. Heard. Vide my separate detailed order of even date, present bail application for grant of anticipatory bail to accused/applicant is hereby allowed and interim bail granted to accused/applicant vide order dated 12.10.2021 is made absolute. Concerned Ahlmad of this court is directed to return the police record/file to the concerned official or Naib court of this court on proper verification and identification against proper receipt. Copy of this order be forwarded to the quarter concerned, whereas file be consigned to record room.

Pronounced:25.10.2021

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Additional Sessions Judge,
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