

**(2020) 02 DEL CK 0376**

**In the Delhi High Court**

**Case No : Bail Application No. 497 Of 2020**

Munna Kumar Singh

APPELLANT

Vs

State Of Nct Of Delhi

RESPONDENT

**Date of Decision : 16-02-2020**

**Acts Referred:**

Indian Penal Code, 1860 — Section 380

Code Of Criminal Procedure, 1973 — Section 91, 156(3)

**Citation : (2020) 02 DEL CK 0376**

**Hon'ble Judges : Rajnish Bhatnagar, J**

**Bench : Single Bench**

**Advocate : Hrishikesh Barua, Nishant Das, Aayushi Jain, Rajni Gupta**

**Final Decision : Disposed Of**

## **Judgement**

Rajnish Bhatnagar, J

1. By way of this petition, the petitioner is seeking grant of anticipatory bail in case FIR No. 34/2019 under Section 380 IPC, registered at P.S.Hauz Khas.

2. In brief, the facts of the case are that the complainant filed a complaint before the concerned MM and on the directions of the concerned MM, FIR No. 34 dated 2.2.2019 under Section 380 IPC was registered at Police Station Hauz Khas. As per the complainant, he got married to Ms. Chandni Dugar on 18.4.2017 at Le Meridian Hotel, New Delhi. After the marriage, the complainant found that her behavior was very surprising and noticed that she was getting calls on her mobile to which she used to react differently. Looking into the strange behavior of his wife the complainant took the mobile phone of his wife and noted the numbers i.e 8135007700, 8638664993, 7896085531 and 9706037466 and enquired from that person. But he did not disclose his name and identity. The complainant came to know that the name of that person is Munna Kumar Singh, the present petitioner. When the complainant enquired from her wife about the petitioner, she did not give any satisfactory reply. According to the complainant since the

past few days many of his jewellery items and cash were being stolen by somebody and he apprehended that it was his wife, who at the instance of present petitioner or some other male person, was committing theft. According to the complainant, he had information that the petitioner with whom his wife used to talk, was coming to meet her on 3.12.2018 and they would stay together in a Hotel and indulge in physical relation.

3. During the investigation, notice under Section 91 Cr.P.C was served on the complainant to get the detail regarding stolen jewellery and cash. According to the complainant, his wife Ms. Chandni Dugar (co-accused) has stolen the following jewellery articles and gave the same to the petitioner for selling purpose. The details of the jewellery given by the complainant are as follows:-

1. 210 Gms of 24k Gold, 6 coins of 22k & 3 Coins of 24K weighing approximately 78 gms in total (belonging to his mother Lalita Devi and sister in law Priti Jain).

2. One Gold Chain (30 gm), (belonging to his mother Lalita Devi).

3. One gold necklace (40 gm) & Gold bangle 35 gms (belonging to his sister in law Priti Jain).

4. One Navlakha Necklace (belonging to his mother Lalita Devi recovered from possession of the accused persons and handed over to him on 03/12/2018 before the registration of FIR).

5. One diamond bracelet 28 gm (belong to his mother Lalita Devi.)

6. Cash Rs.1,50,000/- (belong to his mother Lalita Devi and sister-in-law Priti Jain).

7. Cash Rs.2,00,000/- (payment received for sale of jewellery from Shrimati Gems & Jewels which is complainant father shop to Anita Chandalia & Pramod Chandalia kept in his house) stolen from the house during the month of April 2018.

8. Dollars USD 1000\$ (belong to her mother Lalita Devi).

4. On 3.12.2018, the police went to Hotel Hamilton Lodge where wife of the complainant was present with the petitioner and thereafter, both were brought to the police station Hauz Khas. A necklace of the complainant's mother was found in possession of co-accused Chandni Dugar and the same was handed over to the mother of the complainant. At that time complainant had not taken any action against his wife Chandni Dugar.

5. It is submitted by the counsel for the petitioner that petitioner has been falsely implicated. It is further submitted that the complaint filed by the petitioner is nothing but has arisen out of matrimonial dispute between the complainant and his wife Chandni Dugar. It is further submitted that the interim protection was granted to the petitioner since April 2019 till 11.2.2020 and during this period he has joined the investigation at least on 10 occasions. It is

further argued that the petitioner has also voluntarily consented to tendering of his voice samples before FSL Rohini. It is further argued that co-accused has already been granted bail and he is no more required for any investigation purposes. Learned counsel for the petitioner, for this purpose, has relied upon the judgments in the cases of Sham Lal Vs. State of Punjab, CRM No. M-8001 of 2016 (O & M) dated 26.5.2016 and Sahib Singh and others Vs. State of Punjab CRM-M-28505-2019 dated 26.8.2019. It is submitted by the counsel for the petitioner that the complainant had approached the learned MM for registration of FIR under Section 156(3) Cr.P.C after the complaint of co-accused Chandni Dugar dated 31.12.2018 vide DD No. 38B to the SHO Police Station Hauz Khas against the complainant, his mother, his brother and his sister-in-law.

6. On the other hand, it is submitted by learned APP that the allegations against the petitioner are grave and serious in nature, recovery of gold and cash has to be effected. It is further argued by learned APP that the petitioner has not been co-operating in the investigation despite his joining the investigation on various occasions.

7. It is not in dispute that the complainant has filed a divorce petition before the Family Court, Saket on 3.12.2019. A perusal of para 5(oo) of the divorce petition filed by the complainant against the co-accused Chandni Dugar reveals that after seizing jewellery from the possession of Munna, he was also released by the police. The petitioner requested the police to register the FIR but the police did not register the FIR for the reasons best known to them but the fact is that the complainant himself did not want any action against the petitioner and co-accused Chandni Dugar.

8. In the proceedings before the Hon'ble High Court on 17.1.2019, at that time also it was not pointed out by the complainant and his family members regarding the theft committed by the co-accused despite the presence of their senior Advocate who had appeared on their behalf. It is pertinent to mention here that the complainant remained silent even after the recovery of necklace from the co-accused and did not approach the Magistrate, and approached the Magistrate on 10.1.2019 (after about a month of that incident). The complainant has not even given the list of stolen articles on 3.12.2018 before P.S. Haus Khas with regard to earlier thefts.

9. The contention of the counsel for the petitioner that the present FIR is a counter-blast to the complaint of co-accused dated 3.12.2018 cannot be brushed aside lightly as there is a matrimonial dispute between the co-accused Chandni Dugar on one side and her husband and in-laws on the other side and complaints and counter-complaints are being lodged.

10. As per the prosecution, the petitioner has already joined the investigation at least 10 times and it is not the case that the petitioner is not joining the investigation despite the issuance of any further notice to him. The co-accused is already on bail. As per the status report, the petitioner has also given his voice

sample to the IO.

11. Looking into the facts and circumstances of the present case, in the event of arrest, petitioner is admitted to bail on furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like amount to the satisfaction of IO/SHO/Duty MM. However, petitioner shall join the investigation as and when required by the IO.

12. The petition stands disposed of accordingly.

13. Nothing stated hereinabove shall tantamount to the expression of any opinion on the merits of the case.