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

**CRM-M-35292-2023
Date of Decision: 03.04.2025**

Rohtaj Mehta

..... Petitioner

Versus

U.T. Chandigarh and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Himanshu Bansal, Advocate for
Mr. Anuj Garg, Advocate
for the petitioner.

Mr. Balram Singh, Addl. P.P., U.T., Chandigarh.

Mr. Amar Vivek, Advocate (through V.C.) with
Ms. Arundhati, Advocate,
for respondent No.2.

JASGURPREET SINGH PURI, J. (ORAL)

1. Reply has been filed by learned counsel for the petitioner to the application for cancellation of interim bail filed by respondent No.2/complainant in Court today, which is taken on record.
2. The present petition has been filed under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail to the petitioner in FIR No.0028, dated 07.05.2023, under Sections 406 & 498-A IPC, registered at Women Police Station Sector-17, Chandigarh.
3. The petitioner is the husband and respondent No.2 is the complainant/wife. Respondent No.2/wife lodged FIR against the petitioner under Sections 406 & 498-A IPC on 07.05.2023. The FIR which has been so lodged and so annexed by the petitioner as Annexure P-1 is reproduced as



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under:-

“To, The SHO Police Station Women Cell Sector 17, Chandigarh Subject: Domestic Violence and Dowry Case Complaint against Shri Rohtaj Mehta S/o Suresh Mehta Resident of House no V-52 imperial city, loharka road amritsar I wish to inform that my marriage took place on 16 Jan 2020 from Rohtaj Mehta S/o Suresh Mehta House No V-52 imperial city loharka road Amritsar. I lived with Rohtaj in Noida for almost two months after marriage. My bad days started when Rohtaj and I went to Amritsar in Lock Down. A plot was lying vacant near his house, to buy which Rohtaj's brother, parents and Rohtaj started harassing me to bring money from home, abusing and beating me everyday. I had complained about them in Women Cell Chandigarh. After hearing it was decided on 22.01.2021 between my and Rohtaj's families, signed by Rohtaj and his brother, in the decision Rohtaj stated that I will not beat Ruchi in future and will not do any bad behavior with her. No one will say anything to Ruchi in his house, went to own in laws two three times. But after April 2021 Rohtaj again started abusing me and did not come to take me back, during this time brother of Rohtaj went to London with his family. From April till October resided with my parents. During this time Rohtaj did not pay me any expense. In October Rohtaj with his parents came to our house in Chandigarh. And he gave in writing that he will not beat me. And then parents told that it was their responsibility. You send the girl. Inspired by their assurance my parents send me along with Rohtaj and his parents. After I went there everything was right for few days. But slowly old things started again. And kept of taunting me. That we have purchased the adjacent plot. Now for the construction 30-40 lakh is required then I



said that my father has retired as Senior Assistant. Then I was said that my house id of two and half rooms. Rohtaj's father said that he has already informed that don't marry to her. But Rohtaj did not agreed upon. And there was no Geysar in my room, after facing problem I asked my parents then my parents bought me Geysar in Chandigarh which I got installed in my bathroom in Amritsar otherwise I had to bath in cold water everyday. On 11.12.2021 without anything Rohtaj started abusing me. And hit me with bootle and beaten me, while crying I called my parents on mobile, Rohtaj threw my mobile on outside road three times due to that it broke and beaten up me in street One Aunty from nearby house called me to her house and saved me and closed the door from inside, Rohtaj and his father knocked the door of that Aunty very strongly but Aunty did not open it. From the mobile number 9878000302 of Aunty I called 112 (Punjab Helpline) and informed my situation and two constables from nearby police station. By that time my in laws took me to their house from Aunty house. Constables reached our house after inquiring from Aunty. The my father in law said hat you should and her parents are coming. You go we will inform after taking decision. I have shown my broken mobile to police. After talking to my father in law, constables went from there. After that And took all my father in law abused me a lot. the gold that I was wearing. All the jewelery of gold took forcefully. That day Delhi, road were busy, my parents reached my in-laws house at 12 midnight. My in-laws behaved with my parents very rudely, abused my parents, did manhandling and did not give me any thing from house, shut me out with my parents in the night. When we were sitting in our car, started attack with stones due to which our car got damaged. We reached to near by



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police chowki immediately in the night. And gave to police all the things in writing. And told the police to see our condition and our car's condition. Police asked us to come on Tuesday and said to us that all our items shall be returned to us including my jewellery, my broken phone, my Driving License, My ATM Card, my clothes, shoes, chappals, my purse all things. In the evening police took me to my in-laws. My father in law told that there is no article of mine at that place. One old suit and my two three old clothes were given in one bag. Police told that they could not do anything and we should proceed in Chandigarh. Then I, my mother, my aunt came back to Chandigarh. Therefore it is requested to you that to proceed against these dowry greedy people and my jewellery, clothes, shoes all things be given to me, you will be thankful. Sd/-Ruchi 09-06-2022 Mob. No 9988763512 H.No. 52/5 Subhash Nagar Mani Majra CHD. Proceedings Police: Imroj Complaint No. PW202212625 dt 09.06.2022, 1119-5C/WPS dt. 11.06.2022 made by Ruchi D/O Bal Krishan R/O House No. 52/5, Subhash Nagar, Mani Majra, Chandigarh against Rohtaj Mehta (H) was sent to higher authorities for registration of case after investigation. On which higher Officers have ordered to file a case U/S 406, 498-A IPC against Rohtaj Mehta (H), on the basis of which case no. 28 Dt. 07.05.2023 U/S 406, 498-A IPC WPS Sec-17, Chandigarh Against Rohtaj Mehta (H) S/O Suresh Kumar R/o House No. V-52. Imperial City, Laharika Road, Amritsar, Punjab, ASI himself handed 17 over for further investigation. The Role of alleged persons Suresh Kumar (FIL) and Poonam Mehta (MIL), Vikas Mehta (Jeth) will be looked into during investigation of case. FIR will be in the service of higher officers. Note: In relation to the said case,



*Complainant/Alleged, District Legal Services Authority
Sec.43. Chandigarh Toll Free No. Free help can be taken
on 1516, 0172-2972223 or 0172-2742999.”*

4. Learned counsel for the petitioner submitted that when notice of motion was issued in the present case on 24.07.2023, the petitioner was directed to bring a bank draft of ₹30,000/- in the name of respondent No.2/wife towards litigation expenses. He further submitted that the aforesaid draft has already been handed over to respondent No.2/wife and regarding which there is no dispute. Apart from the above, an interim order was also passed on the aforesaid date i.e. on 24.07.2023 in which interim protection was granted to the petitioner with a direction to join investigation as and when called for and in the event of arrest, the petitioner shall be admitted to interim bail on furnishing personal bonds with adequate surety to the satisfaction of the Arresting Officer. The petitioner shall also abide by all the terms and conditions as specified in Section 438(2) of the Code of Criminal Procedure, 1973. Thereafter, the petitioner did not join investigation since the matter was sent to the Mediation and Conciliation Centre of this Court. Both the parties underwent mediation but unfortunately it failed and thereafter, on 17.11.2023, the interim order was directed to be continued. The aforesaid interim order was further extended on 07.08.2024 and in the meantime, once the mediation failed, the petitioner has joined the investigation and he co-operated with the investigation process and submitted that considering the fact that it was a matrimonial dispute between the parties and the petitioner has already joined investigation and co-operated with the investigation process, the interim order by which he was granted interim bail may be made absolute.

5. Learned counsel for the petitioner further submitted that during

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the pendency of the present petition, an application was moved by respondent No.2/wife seeking cancellation of interim bail granted to the petitioner on the ground that after the grant of interim bail to the petitioner, he has been sending scandalous and offensive messages to the complainant and the same messages were allegedly not only the abusive messages but were also threatening in nature for compromising the matter, regarding which, the complainant had so stated in the application and attached some WhatsApp messages purported to have been sent by the petitioner. He also submitted that both the petitioner and the complainant in pursuance of the orders passed by this Court on 07.08.2024 had deposited their mobile phones to the Investigating Officer for seeking a report of the Forensic Science Laboratory.

6. Learned counsel for the petitioner also specifically submitted that the messages which are alleged to have been sent by the petitioner which have been so attached and reproduced in the application filed by respondent No.2/wife for cancellation of bail were not sent by him and they were all concocted and cloned messages using a software which can easily be used in this regard and therefore, there was a complete denial of the aforesaid messages being sent by the petitioner to his wife to respondent No.2/wife.

7. On the other hand, Mr. Balram Singh, learned Additional Public Prosecutor, U.T., Chandigarh submitted that in compliance of the orders passed by this Court on 07.08.2024, both the petitioner/husband and respondent/wife had deposited their mobile phones to the Investigating Officer and the same were sent to the Forensic Science Laboratory for the purpose of verifying the aforesaid messages which were so alleged by respondent No.2/wife in her application for cancellation of interim bail and a report has been received from the FSL in which it has been so observed that all the messages from both the parties have since been deleted and there is no record with regard to the same



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nor the same can be ascertained. He also submitted that the WhatsApp messages are having end-to-end encryption and the same cannot be retrieved especially when the same have been deleted. He submitted that in this way so far as the messages which have been so attached with the application filed by respondent No.2/wife cannot be retrieved and therefore, no comments can be made as to whether deleted messages were the same messages or not because there is no record with regard to the same.

8. Learned Addl. P.P., U.T., Chandigarh on instructions further submitted that although earlier the petitioner did not join the investigation but now he has joined the investigation and has also co-operated with the investigation process except that he has not returned some of the gold ornaments which were alleged by respondent No.2/wife to have been given at the time of marriage. He also submitted that although there were no specific details of the gold ornaments etc. in the FIR which was based upon the complaint but thereafter, before the Women Cell, respondent No.2/complainant had given a list of some articles which according to the complainant have not been returned by the petitioner.

9. Mr. Amar Vivek, Advocate has caused appearance on behalf of respondent No.2 through Video Conferencing and to assist him Ms. Arundhati, Advocate is present in Court and they both argued that after the grant of interim bail by this Court on 24.07.2023, the petitioner sent various WhatsApp messages to respondent No.2/wife which were scandalous and were also threatening in nature, regarding which, screenshots of the messages have been attached along with the application for cancellation of interim bail. They further submitted that even if a report has come from the Forensic Science Laboratory that all the messages from both the parties have been deleted but the screenshots would show that abusive and threatening messages were given by



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the petitioner to the complainant and therefore, on this ground the petitioner is not entitled for grant of anticipatory bail and the interim order which was granted to him may be cancelled. They also submitted that respondent No.2 has also given a complaint to the Investigating Officer with regard to the aforesaid messages but no action has been taken in this regard and since it was a violation of the conditions of grant of bail, the petitioner does not deserve the concession of anticipatory bail.

10. At this stage, learned State counsel while replying to the argument so raised by learned counsel for respondent No.2/complainant with regard to filing of the complaint submitted on instructions that although a complaint was received by the I.O. from the complainant regarding the aforesaid messages but thereafter, in compliance of the orders passed by this Court on 07.08.2024, both the parties i.e. the petitioner/husband and respondent No.2/wife have submitted their mobile phones and the same were sent for verification to the FSL and as aforesaid it was found that all the messages stand deleted and therefore, it cannot be said that the I.O. did not proceed with the complaint which was filed by the complainant/respondent No.2. Learned State counsel also submitted on instructions that even in future at any stage in case the complainant files any such kind of complaint or that the conditions of the bail are being violated, then it will be the duty of the I.O. to deal the same in accordance with law and file an appropriate application before the competent Court in accordance with law.

11. Learned counsel for the petitioner also while replying to the argument raised by learned counsel for respondent No.2/complainant submitted that in the reply which has been filed by the petitioner to the application for cancellation of interim bail filed by the complainant/respondent No.2, he has rather specifically denied that no such WhatsApp messages as alleged by the complainant/respondent No.2 were sent by the petitioner and so far as the



annexures of screenshots of WhatsApp messages which have been attached by the complainant/respondent No.2 along with her application for cancellation of interim bail, the same were not sent by the petitioner and now it has become very easy with the help of advanced technology available in today's world to manufacture such kind of messages by saving a phone number under any other person's name and such screenshots of messages can easily be concocted and manufactured and in the present case the same has been done by the complainant/respondent No.2 and he never threatened the complainant.

12. Learned counsel for the petitioner further submitted that rather on the other hand, respondent No.2/complainant had been using abusive language and threatening the petitioner by sending repeated emails, regarding which, he has attached the copies of the emails along with his reply and submitted that rather it is other way round because the complainant/respondent No.2 had been using abusive and scandalous language against the petitioner and therefore, it cannot be presumed that the petitioner has sent any such kind of messages.

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

14. The dispute is between the husband and wife pertaining to matrimonial dispute. The present FIR is under Sections 406 & 498-A IPC. A perusal of the FIR would show that with regard to any gold ornaments etc. no specific allegations have been made pertaining to entrustment. However, as per learned State counsel at the time when respondent No.2/complainant had appeared before the Women Cell, she had rather given a list of gold ornaments. The petitioner was granted interim bail on 24.07.2023 which is more than 1½ years ago. The matter was also sent to the Mediation and Conciliation Centre of this Court, but the same failed. Thereafter, as per the learned State Counsel, the petitioner has already joined investigation and has also co-operated with the investigation process except for non-return of some of the gold items.



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15. So far as non-return of gold items, if any, is concerned, the same itself cannot become a ground for denial of bail in a matrimonial dispute of such nature because it can be seen only at the time of adducing evidence as to what articles were entrusted at the time of marriage and whether they were returned or not particularly in view of the fact that the aforesaid items, if any, do not find specific mention in the FIR.

16. So far as the messages as alleged by the complainant in the application for cancellation of interim bail allegedly sent by the petitioner are concerned, in pursuance of direction issued on 07.08.2023, both the parties deposited their mobile phones before the I.O. and a report was also received from the FSL as per learned State counsel that no such messages were available because the messages stand deleted. In this way, with regard to the authenticity of the messages which have been attached by the complainant/respondent No.2 as screenshot messages allegedly being scandalous and abusive language used by the petitioner is concerned, the same have not been verified at least at this stage. Apart from the above, when the petitioner has filed a reply to the application filed by the complainant/respondent No.2 for the cancellation of interim bail, he has also attached screenshots of some of emails alleging that the complainant/wife has also used abusive language against the petitioner.

17. During the course of arguments, learned State Counsel has also made a statement on the basis of instructions that in case in future there is any threat to the complainant/respondent No.2 from the petitioner or any violation of the conditions of Section 438(2) of the Cr.P.C. is alleged, then it is the duty of the I.O. to process the same in accordance with law and the same will also be done.

18. For the purpose of considering the grant of anticipatory bail in a matrimonial dispute, so far as non-return, if any, of the gold items is concerned

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as aforesaid, in the facts and circumstances of the present case it cannot become a ground for denial of bail. For the purpose of considering the grant of anticipatory bail, a balance has to be struck between the freedom of an individual on the one hand and the role of the accused/petitioner and the other circumstances as so projected on the other hand. In the present case, this Court is satisfied that even if assumingly some messages were sent through WhatsApp although they were not available on record, the question would be as to whether the same can become a ground for denial of bail to the petitioner or not. The petitioner in the reply to the application has also attached some of the emails allegedly sent by respondent No.2/complainant against the petitioner, the same would also therefore be a relevant factor in this regard whereby allegedly she also used abusive language. This Court is, therefore, satisfied that it is the liberty of the petitioner which will be having a higher edge and will be a dominant factor whereas those WhatsApp messages, if any, although not verified by the State will only be subservient factors for the purpose of striking out of balance as aforesaid.

19. Consequently, the present petition is allowed and the order dated 24.07.2023, is hereby made absolute.

03.04.2025*Bhumika***(JASGURPREET SINGH PURI)**
JUDGE

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