

**Sunil Sharma and Others Vs. State**

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**SooperKanoon Citation :** [sooperkanoon.com/682448](http://sooperkanoon.com/682448)

**Court :** Delhi

**Decided On :** May-20-1993

**Reported in :** 1993CriLJ3628; I(1993)DMC570

**Judge :** Sat Pal, J.

**Appeal No. :** Crl. M(M) No. 885 of 1993

**Appellant :** Sunil Sharma and Others

**Respondent :** State

**Advocate for Def. :** K.K. Sareen, Adv.

**Advocate for Pet/Ap. :** Shambhu Nath, Adv

**Judgement :**

**ORDER**

1. This is a petition for grant of anticipatory bail under section 438 of Code of Criminal Procedure read with Section 482 of Code of Criminal Procedure.

2. In this case at the instance of the wife Smt. Sunita Sharma, a case was registered under sections 406/498A, I.P.C. at P.S. Anand Parvat against the petitioners. The petitioners approached the Sessions Court for grant of anticipatory bail and a learned Additional Sessions Judge, by his order dated 20th March, 1993 directed the petitioners to deposit Rs. 10,000/- each in a nationalised bank in the

name of the trial Court within one week and directed that on such deposit, in the event of arrest, petitioners will be released on bail on furnishing a personal bond in the sum of Rs. 5,000/- with a surety in the like amount to the satisfaction of the IO/SHO.

3. Mr. Shambhu Nath, learned counsel appearing on behalf of the petitioners submitted that the condition for deposit of Rs. 10,000/- each in the shape of FDR imposed by the learned Addl. Sessions Judge was contrary to law. He submitted that the proceedings under section 406/498A, IPC are not meant for the recovery of the jewellery or other articles of dowry. In support of his contentions the learned counsel placed reliance on two judgments of the Supreme Court in the cases of *Moti Ram v. State of Madhya Pradesh*, : 1978 CriLJ1703 ; *Keshab Narayan Banerjee v. The State of Bihar*, : 1985 CriLJ1857 and a judgment of this Court in the case of *Jagdish Thakkar v. State of Delhi*, 1993 JCC 177.

4. Mr. Sareen, learned counsel appearing on behalf of the State, however, submitted that the conditions imposed by the learned Addl. Sessions Judge are in the interest of justice as the allegations against the petitioners are that they had misappropriated the Stridhan belonging to the wife of the petitioner No. 1.

5. I have given my thoughtful consideration to the submissions made by the learned counsel for the parties. Here it may be relevant to mention Section 437 and Section 438 of Code of Criminal Procedure, in terms of which the Court can impose any condition which the Court considers necessary in the interest of justice. In the present case, as per allegations, inspire of the efforts made by the police, certain articles of jewellery could not be recovered from the petitioners and to protect the interest of the wife, the condition of deposit of amount was imposed by the Sessions Court while granting anticipatory bail. The judgments in the cases of *Keshab Narayan Banerjee* (supra) and *Moti Ram* (supra) are not relevant to the facts of the present case as in those cases, the question of protecting the interest of a woman was not involved. Similarly the ratio of the judgment of this court in *Jagdish Thakkar's* case (supra) is also not relevant because by imposing a condition, the amount of the FDR is not being paid to the wife at this stage.

6. In view of the above discussion, I do not find any merit in the contention urged by the learned counsel for the petitioner. However, in the interest of justice I modify the order passed by the learned Addl. Sessions Judge to the extent that only the petitioner No. 1 shall deposit a sum of Rs. 10,000/- in the shape of FDR for a period of two years in the name of Smt. Sunita Sharma and the petitioner No. 2 will not be required to deposit any amount. Accordingly, I direct that subject to the deposit of Rs. 10,000/- in the shape of FDR in the name of Smt. Sunita Sharma, complainant, within two weeks, the petitioner No. 1 in case of arrest be released on bail on furnishing a bail bond in the sum of Rs. 5,000/- with one surety in the like amount to the satisfaction of the Arresting Officer/SHO. The FDR be deposited with the Investigating Officer within two weeks and the I.D. will deposit the same in the trial Court along with the challan. The learned trial Judge at the time of passing final judgment will pass necessary orders for payment of the FDR to the party found entitled for the same. As regards the petitioner No. 2, I direct that in case of her arrest, she be released on bail on her furnishing a bail bond in the sum of Rs. 5,000/- with one surety in the like amount to the satisfaction of the I.O./S.H.O. It is further directed that the petitioners shall join investigation as and when required. With this order, petition stands disposed of.

7. Order accordingly.