

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.17068 of 2015

Date of decision: August 03, 2015.

Harjinder Singh

... **Petitioner**

v.

State of Punjab

... **Respondent**

CORAM: **HON'BLE MR. JUSTICE DARSHAN SINGH**

Present: Shri Gaurav Singla, Advocate for the petitioner.
Shri Jashanpreet Singh, AAG, Punjab.
None for the complainant.

Darshan Singh, J. (Oral):

The present petition has been filed under Section 438 of the Code of Criminal Procedure, 1973 (hereinafter mentioned as the Code) for grant of anticipatory bail to petitioner Harjinder singh in case FIR No.149 dated 13.12.2014, Police Station Sadar Sri Mukatsar Sahib under Sections 457/380 of the Indian Penal Code, 1860 (hereinafter mentioned as the “IPC”).

Learned Counsel for the petitioner contended that the petitioner has not committed any offence. He is being falsely implicated on the basis of suspicion. He contended that the petitioner is even ready to deposit with the Court the value of the stolen articles. He has also joined the investigation, so he deserves the concession of anticipatory bail.

On the other hand, learned Counsel for the State contended that **wrong** facts have been pleaded by the petitioner in the petition that the

petitioner had already handed over the mobile phone to the police. In fact, no mobile phone has been handed over by the petitioner to the police. The recovery of the stolen property is yet to be effected. The deposit of the cash amount cannot be a substitute for the stolen property as the stolen property is also to be produced during trial as a corroborative evidence. Thus, he pleaded that the petitioner does not deserve the concession of anticipatory bail as his custodial interrogation is necessary.

I have duly considered the aforesaid contentions.

As per the prosecution allegations, on 5.12.2014, complainant Nikhil Mahajan had gone to Bathinda and when he returned on 8.12.2014 he found the back side gate of his residential quarter lying open. The articles in the house were lying scattered. His mobile phone along with Sim card and two Titan watches were found missing. In para 4 of the petition, the petitioner has mentioned that he has handed over the mobile to the police but this fact has been controverted by learned Counsel for the State on the instructions of the police official of P.S. Sadar Sri Mukatsar Sahib. So, the petitioner has even pleaded the wrong facts in the petition in order to claim benefit of the anticipatory bail. Thus, the recovery of the stolen property i.e. Mobile phone and two Titan watches are yet to be effected which may require the custodial interrogation of the petitioner.

It is settled principle of law that where the custodial interrogation is required for the proper investigation of the case, it is not desirable to grant the concession of anticipatory bail. Consequently, the petitioner has not been made out the exceptional case to claim the extra-ordinary privilege of anticipatory bail.

Thus, keeping in view my aforesaid discussion, the present petition has no substance and the same is hereby dismissed.

August 03, 2015.
kadyan

[**Darshan Singh**]
Judge