

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

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**C.R.M-M No.13578 of 2016 (O&M)
Date of Decision : 05.12.2016**

Manju Asth and another

..... Petitioners

Versus

Union Territory of Chandigarh

..... Respondent

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Ashish Verma, Advocate
for the petitioners.

Mr. Amit Kumar Goyal, APP, U.T., Chandigarh.

Mr. Onkar Rai, Advocate
for the complainant.

AJAY TEWARI, J. (Oral)

This is a petition under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioners in case FIR No.121 dated 31.03.2016, registered under Sections 454, 380, 34 IPC, at Police Station Sector 34, Chandigarh.

Reply filed by way of affidavit of Deepak Yadav, Deputy Superintendent of Police, U.T. Chandigarh is taken on record.

On 25.04.2016 the following order was passed:-

*“Prayer is for grant of anticipatory bail on behalf of
accused Manju Asth and her brother Ramesh Asth in case FIR*

No.121 dated 31.3.2016 under Sections 454,380,34 IPC, PS Sector 34, Chandigarh.

The allegation of their cousin-complainant/Vinay Krishan Asth is that his co-accused aunt Kamla alongwith her family members including present petitioners had forcibly taken possession of ground floor of MIG dwelling unit No.3519, Sector 46-C, Chandigarh as also stolen household articles.

It is contended that petitioner no.1 is not even a resident of Chandigarh whereas it has come on record (in the execution proceedings) that Vinay Krishan Asth-complainant himself had handed over vacant possession to co-accused Kamla as per compromise between the family members. Pursuant to the compromise the injunction suit filed by Kamla was withdrawn on 17.9.2015(P-8) in the presence of the counsel for the said complainant in the execution. This fact of handing over possession is noticed in the order dated 18.9.2015 (P-7) whereby the said complainant had himself chosen to stay away from the proceedings.

Notice of motion for 13.5.2016.

In the event of arrest, the petitioners shall be released on bail on furnishing adequate bail and surety bonds to the satisfaction of the Arresting/Investigating Officer. Petitioners shall appear before the I.O., as and when called upon for investigation and shall also be bound by all the conditions stipulated in Section 438(2) Cr.P.C.”

Learned counsel for the complainant and the learned counsel for the U.T. Administration have not disputed the fact that the injunction suit filed by Kamla was withdrawn on 17.09.2015 in the presence of the counsel for the complainant though the learned counsel for the complainant has argued that his counsel should have immediately clarified that the possession had not been given by him.

On the last date the matter was adjourned to enable the counsel for the complainant to ascertain whether he had filed any complaint against that counsel. Today, the learned counsel for the complainant has very fairly stated that no complaint was filed by the complainant against that counsel.

Learned counsel for the U.T. Administration states that the petitioners are not handing over the articles belonging to the complainant.

Learned counsel for the petitioners states that no articles belonging to the complainant are in the house and at the time of handing over the possession all articles had been given to him.

Be that as it may, in view of the entire conspectus of facts, I do not deem it appropriate to deny the concession of anticipatory bail to the petitioners.

Petition is allowed. Interim order dated 25.04.2016 is made absolute. It is needless to say that any observations made herein-above are absolutely prima-facie and would not have any impact on the merits of the case.

Since the main case has been decided, the pending criminal miscellaneous application, if any, also stands disposed of.

December 05, 2016
ashish

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No