

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

CRM-M-22185 of 2016 (O&M).
Decided on:-22.08.2016.

Samarbir Singh and another

.....Petitioners.

Versus

State of Punjab.

.....Respondent.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

Present:- Mr. K.B. Raheja, Advocate
for the petitioners.

Mr. Gurinderjit Singh, DAG, Punjab.

Mr. Raman Goklaney, Advocate
for the complainant.

HARI PAL VERMA, J.

This is the second petition filed under Section 438 Cr.PC for grant of anticipatory bail to the petitioners in case FIR No.24 dated 30.3.2012 under Sections 382, 365, 452, 506, 427, 148, 149 IPC, Sections 25 and 27 of the Arms Act, 1959 as well as Sections 392 and 395 IPC (added later on) registered at Police Station Sadar Abohar, District Ferozepur.

The said FIR was got registered by complainant Gurwant Kaur. As per the FIR, her son Balkaran Singh is residing in a Kothi constructed by him in his fields situated in the area of village Balluana. He is having land dispute with the petitioners, namely, Samarvir Singh and Kulbir Singh, residents of village Abohar. The petitioners are intending to take possession

of the land. On 30.3.2012, she was present in the house along with servant Sushil Kumar son of Gahbir Singh, resident of village Megha Kheri and Kulwinder Singh son of Resham Singh, resident of village Pakki Tibbi. At about 3.30 p.m., a number of cars stopped in front of her house from which the petitioners armed with guns appeared. They were accompanied by Taari son of Vir Singh, Chand Kumar son of Sher Chand, residents of Dhani Thakar Singh, Nachhattar Singh son of Pala Singh, resident of village Bhamba Wattu, Lovee son of Darshan Singh, resident of village Pakki Tibbi and 5-6 other persons were there, out of which, 3 persons were talking in Rajasthani and appeared to be Muslim by their language. They opened the gate of the complainant's Kothi in forcible manner and entered in the Kothi. Her son Balkaran Singh was not present at home at that time. Said persons surrounded all the three persons including the complainant and made them to sit aside by causing fear in their mind. All the persons conducted search in their house by breaking open locks of Petties (iron trunk) and almirahs and shattered the articles. They took away cash and jewellery lying in the Petties and almirahs as well as title deeds of land with them. They had also kidnapped the complainant and servant Sushil Kumar and Kulwinder Singh. Threats were extended that in case they dared to raise alarm, they would be eliminated. However, when they arrived at G.T. Road after kidnapping the complainant and two other persons, they received a phone call, on which they got frightened and alighted the kidnapped persons from the car and skipped towards Malout.

Learned counsel for the petitioners has contended that initially, the petitioners were granted interim bail vide order dated 1.12.2015 passed by learned Additional Sessions Judge, Fazilka as charge under Sections 392 and 395 IPC was not framed against them and the FIR was registered under Sections 382, 365, 452, 506, 427, 148, 149 IPC and Sections 25 & 27 of the Arms Act, 1959 only. However, when Sections 392 and 395 IPC were attracted, learned Additional Sessions Judge, Fazilka vide order dated 19.5.2016 dismissed the anticipatory bail application.

Learned counsel for the petitioners has also relied upon judgment of this Court in *Sandeep Sahni Versus State of Punjab 2006(2) RCR (Criminal) 546* to contend that when in the case registered under Section 306 IPC, the accused was granted bail and subsequently, Section 302 IPC was added, but when the petitioner has not misused the concession of bail granted under Section 306 IPC, the accused is entitled to be admitted on anticipatory bail till conclusion of the investigation. Reliance has also been placed to another judgment of this Court in *Rakesh Versus State of Haryana 2011(2) RCR (Criminal) 436* wherein the accused were initially admitted on anticipatory bail under Sections 324 and 506 read with Section 34 IPC. However, when offence under Sections 326 and 323 IPC were added subsequently, the accused were held entitled to bail for the newly added offences as well.

Learned State counsel, on the other hand, has argued that the allegations against the petitioners are serious in nature as Sections 392 and

395 IPC have been added later on. Therefore, the petitioners are not entitled to be admitted on anticipatory bail.

I have heard learned counsel for the parties.

The allegations against the petitioners are serious in nature. Though initially, anticipatory bail was granted to them by learned Additional Sessions Judge, Fazilka vide order dated 1.12.2015, but the same cannot be a ground to further confirm anticipatory bail particularly when the offence under Sections 392 and 395 IPC have been added later on.

The cases of *Sandeep Sahni* and *Rakesh* (supra) are not applicable in the facts and circumstances of the present case. In the case of *Rakesh* (supra), initially, the case was registered under Section 324 IPC, but subsequently, while taking into consideration the injuries, Section 326 IPC was added. Therefore, only injuries were assessed, but in the present case, during investigation of case, offence under Sections 392 and 397 IPC have been made out which offences are quite serious in nature.

In view of the above, considering the nature of allegations made against the petitioners, no case for grant of anticipatory bail is made out. The present petition is, accordingly, dismissed.

August 22, 2016
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes / No

Whether Reportable: Yes / No