

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

***CRM No.M-24012 of 2015 (O&M)
Date of decision : 25.02.2016***

Asha Arora and another

...Petitioners

Vs.

State of Punjab

...Respondent

2. CRM No.M-24665 of 2015 (O&M)

Mohan Sethi

...Petitioner

Vs.

State of Punjab

...Respondent

CORAM : HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.

Present: Mr. Veneet Sharma, Advocate for the petitioner(s).

Mr. K.D. Sachdeva, Additional Advocate General, Punjab.

Ms. Loveleen Dhaliwal, Advocate for the complainant.

...

TEJINDER SINGH DHINDSA, J.

This order shall dispose of ***CRM No.M-24012 of 2015*** titled as ***Asha Arora and another Vs. State of Punjab*** and ***CRM No.M-24665 of 2015*** titled as ***Mohan Sethi Vs. State of Punjab*** as both these petitions arise out of the same FIR and the prayer is for grant of concession of pre-arrest bail to the petitioners therein in FIR No.94 dated 19.06.2015, under Sections 380/120-B IPC, registered at Police Station Division No.2, Jalandhar City, District Jalandhar.

Briefly, it may be noticed that the FIR came to be registered on the complaint of Harjinder Pal. As per statement of complainant, he was initially married to Sushma Gambir and who had expired on 19.12.2004.

Subsequently, he got married to Saroj on 13.01.2006. Accusations are that Saroj was persisting with a demand of Rs.20 lacs so as to facilitate setting up of a business by her brothers and other family members. Complainant alleges that since he had expressed his inability to fulfill such demand, Saroj entered into a conspiracy with her family members including her two brothers, namely, Mohan Sethi (petitioner in CRM No.M-24665 of 2015), Ajay Sethi, real sister Asha and Asha's son Varun (petitioners in CRM No.M-24012 of 2015) and in a clandestine manner in the absence of the complainant on 13.04.2015 decamped with jewellery weighing 160 tolas and Rs.6 lacs cash and various other house hold goods. Complainant has further alleged that on 15.04.2015 when he proceeding to Amritsar, to inquire as regards the whereabouts of Saroj, the present petitioners had not given any satisfactory response and rather threatened and abused him.

While issuing notice of motion on 24.07.2015 in CRM No.M-24012 of 2015, the following order was passed by this Court:

“Learned counsel for the petitioners contends that present FIR has been lodged by husband of sister of petitioner no.1. He further contends that this is a marriage dispute and just to put pressure, present FIR has been lodged.

Notice of motion to the Advocate General, Punjab, for 03.09.2015.

Meanwhile, in the event of arrest, the petitioners shall be admitted to interim bail on their furnishing personal and surety bonds to the satisfaction of Arresting/Investigating Officer. The petitioners shall, however, join investigation as and when called for and they will also abide by the conditions as specified under Section 438(2) Cr.P.C.”

Likewise, the notice of motion order dated 29.07.2015 in CRM

No.M-24665 of 2015 reads in the following terms:

“Learned counsel for the petitioner states that petitioner is brother of the husband of the complainant and is residing in a separate city. He further contends that this is a marriage dispute and just to put pressure, present FIR has been lodged.

Notice of motion to the Advocate General, Punjab, for 03.09.2015.

Meanwhile, in the event of arrest, the petitioner shall be admitted to interim bail on his furnishing personal and surety bonds to the satisfaction of Arresting/Investigating Officer. The petitioner shall, however, join investigation as and when called for and he will also abide by the conditions as specified under Section 438(2) Cr.P.C.”

Learned State counsel upon instructions from ASI Bhajan Ram would apprise the Court that the petitioners have since joined investigation. However, prayer made in the present petitions seeking concession of anticipatory bail is vehemently opposed by learned State counsel as also counsel appearing for the complainant by submitting that main accused, Saroj is still on the run and the present petitioners are not cooperating as regards disclosing her whereabouts.

In the considered view of this Court, the petitioners are entitled to the concession of pre-arrest bail.

Even as per complainant's version, it is not the present petitioners who have removed any articles/cash/gold from the house of the complainant. It is not even the case of the complainant that the petitioners herein were staying in a joint household. Even as per complainant's version, a CCTV camera was installed in the neighbour's house and the act of removal of articles from the house has been captured in the CCTV footage.

During the course of arguments, it has been conceded even by counsel

appearing for the complainant that in such CCTV footage, it is only Saroj who is seen removing the articles/household material. The presence of the present petitioners is not recorded therein.

In view of the above and coupled with the fact that the petitioners have since joined investigation, their custodial interrogation would not be warranted.

Petitions are allowed. Orders dated 24.07.2015 passed in CRM No.M-24012 of 2015 and 29.07.2015 passed in CRM No.M-24665 of 2015 are made absolute.

Disposed of.

25.02.2016

harjeet

**(TEJINDER SINGH DHINDSA)
JUDGE**