

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

**CRM-M No.11915 of 2017
Date of Decision: 07.04.2017**

Joginder Singh and another

..... Petitioners

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Ms. Loveleen Dhaliwal, Advocate
for the petitioners.

DEEPAK SIBAL J. (ORAL)

Through the present petition filed under Section 438 Cr.P.C., the petitioners pray for grant of anticipatory bail in FIR No.234, dated 11.12.2016, registered under Sections 457 and 380 IPC, at Police Station Babain, District Kurukshetra.

The case of the prosecution is that the complainant filed a complaint with the police that someone had committed theft in his shop. On the night of 10th December, 2016, he locked his shop at about 7.30 p.m. and, thereafter, he went to his village. In the morning, one Sukhdev Singh telephonically informed the complainant that the shutter of his shop was lying broken. He rushed to the shop to find that the shutter of his shop had been lifted with the help of a rod and theft had been committed of six boxes of pesticides and insecticides, one drum of SAAF, four bags of sulphur, some old cassettes of customers and some other articles.

On the statement of an under-trial-Billu, the petitioners have been found involved in the present case.

The order dated 21.03.2017 passed by the Additional Sessions Judge, Kurukshetra, dismissing the petition for anticipatory bail, filed by the petitioners, shows that petitioner No.1 is involved in 20 criminal cases and petitioner No.2 in 9 criminal cases which relate to the years 1994, 1995, 1996, 1998, 2000, 2001, 2003, 2010, 2012, 2015 and 2016.

There are serious allegations of theft against the petitioners. Petitioners are also habitual offenders as petitioner No.1 is involved in 20 criminal cases and petitioner No.2 in 9 criminal cases. These cases relate to the years between 1994 – 2016 which means that while on bail in one or more of the above cases, the petitioners have misused the concession of bail on one or more occasion. Thus I do not find the present case to be a fit one for the grant of anticipatory bail especially when recovery of the articles allegedly stolen by the petitioners is yet to be made.

Learned counsel for the petitioners has referred to an interim order of this Court dated 09.03.2017 passed in ***CRWP No.282 of 2017- Harpal Kaur Vs. State of Haryana and others*** in which on 9th March, 2017, the son of petitioner No.1, namely, Sukhwinder Singh was alleged to be in illegal custody of the Haryana Police. In that case, the interim order dated March 09, 2017, has been passed, which reads as under:-

“This petition, under Article 226 of the Constitution of India, is for the issuance of a writ in the nature of habeas corpus, for the release of alleged detenue from the illegal custody of respondent Nos.3 to 5.

Learned counsel contends that the alleged detenue is in the illegal custody of respondent Nos.3 to 5, who are police officials. It is further contended that there is apprehension to his life, at the hands of respondent Nos.3 to 5.

The petitioner is also present in person. She states that she was given beatings by respondent Nos.4 and 5, she approached GMSH, Sector-16, Chandigarh for MLR and treatment, however, they refused to entertain her.

Notice of motion for 20.03.2017.

In this view of the matter, a situation has arisen to appoint a Warrant Officer, who shall search the whereabouts of the alleged detenue, at the address mentioned in the writ petition or at any other place(s) as may be indicated by the petitioner, and if, he is found in illegal custody of respondent Nos.3 to 5, he be got released forthwith. The fee of the Warrant Officer shall be determined by the Registry as per the Rules and borne by the petitioner.

The specific report of the Warrant Officer be also placed on record before the next date of hearing.

Further, the Medical Superintendent, GMSH, Sector-16, Chandigarh, is directed to ensure that the MLR of the petitioner is carried out immediately and she is given the required treatment.

Keeping in view the urgency of the matter, a copy of the order be given dasti under the signature of the Bench Secretary.”

The reliance by learned counsel for the petitioners on the afore-quoted order is misplaced as the same is merely an interim order; it

does not concern the present case as the allegations in that case pertain to illegal confinement of the son of petitioner No.1 and that too in March, 2017 whereas the present FIR is based on a event of December, 2016.

Dismissed.

(DEEPAK SIBAL)
JUDGE

April 07, 2017
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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No