

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

**Crl. Misc. No.M-21652 of 2017 (O&M)
Date of Decision: July 13, 2017**

Rakesh and others

.....PETITIONER(s).

VERSUS

State of Haryana

....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Nonish Kumar, Advocate
for the petitioner (s).

Mr. Deepak Grewal, D.A.G. Haryana.

Mr. Parminder Singh, Advocate
for complainant-respondent No.2.

SURINDER GUPTA, J.(Oral)

The present petition has been filed under Section 438 Code of Criminal Procedure for grant of anticipatory bail to the petitioners in case FIR No.373 dated 05.10.2010 registered for the offences punishable under Sections 380, 454 Indian Penal Code (for short-IPC) and Sections 148, 447, 452 and 506 read with Section 149 IPC added later, at Police Station Indri, District Karnal.

Heard.

The dispute in this case pertains to the management and property of temple Milk Aapo Aap Radha Krishan Mandir situated at village Chogawan, Tehsil Indri, District Karnal. The allegations against the

petitioner are that they dispossessed the complainant and took out her entire household articles. They also gave threats to kill her.

Learned counsel for the petitioners submits that husband of complainant namely Ghanshyam Dass was a *Pujari* in the temple. He was not performing his job properly, as such, he was removed from the job. Panchayat intervened and articles of complainant were taken to Panchayat house from where these were recovered by the police. The civil dispute between the parties is also pending and this complaint has been filed to harass the petitioners. Petitioner No.2-Raj Kumar is member of the Management Committee of the temple which was created by the Panchayat.

Learned counsel for the complainant submits that husband of complainant was never removed from his job. The articles of complainant lying in her house in the temple were forcibly taken away by the petitioners. She is not being permitted to enter the village despite there being order of the civil Court restraining her dispossession except in due course of law. This shows highhandedness on the part of petitioners and they are not entitled to pre-arrest bail.

Learned State counsel submits that some of the articles which the complainant had alleged, were taken away by the petitioners are yet to be recovered, as such, petitioners be not allowed pre-arrest bail.

On perusal of the file and after giving careful thought to the submissions of learned counsel for the parties, I find that dispute pertains to the possession and management of the temple and its property regarding which civil suit is already pending. As per report of DSP, Karnal, copy of which has been placed on file as Annexure P-2, alleged stolen articles were

recovered from Panchayat house and stolen tractor is recovered from the plot of Rakesh Kumar, petitioner No.1. The allegations levelled by the complainant are subject to the scrutiny and the inquiry in the matter is pending.

Keeping in view the above facts but without expressing any opinion on the merits of the case, this petition is allowed and the order dated 12.06.2017 is made absolute till the presentation of challan, subject to the following terms:-

- (i) that the petitioners shall make themselves available for interrogation by the police as and when required;
- (ii) that the petitioners shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the accusation against them so as to dissuade him from disclosing such facts to the Court or to any police officer;
- (iii) that the petitioners shall not leave India without the prior permission of the Court.
- (iv) that the petitioners will seek regular bail on the presentation of challan in Court.

The complainant, however, shall be at liberty to avail other legal remedies available to her with regard to submission of learned counsel for the complainant that she is not being allowed to enter the village or property in question.

July 13, 2017
Sachin M.

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned: ***Yes/No***

Whether Reportable: ***Yes/No***