

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CRM-M No.33479 of 2017
Date of Decision.22.09.2017

Johari Mal and others

.....Petitioners

Vs

State of Haryana

.....Respondent

Present: Mr. U.K. Agnihotri, Advocate
for the petitioners.

Mr. Tanuj Sharma, AAG, Haryana.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J.(ORAL)

The petitioners apprehending arrest at the hands of the police in FIR bearing No.325 dated 11.08.2017 (08.08.2017 as mentioned in the lower Court order) under Sections 186, 225, 332, 353, 379B, 506, 511 IPC, Police Station Bilaspur, District Gurugram approached the trial Court for anticipatory bail but the same has been declined.

Learned counsel for the petitioners submits that FIR bearing No.172 dated 30.04.2017 registered by complainant-Siddhant was against Vikas and Vishal, both brothers and seven other persons for commission of offences under Sections 323, 325, 34 and 506 IPC, later on Section 365 was added. As per the aforementioned FIR, Siddhant was abducted by two brothers with the aid of seven persons. The challan in the aforementioned case was filed on 05.07.2017. In any of the statement suffered before the police, he never disclosed the name of Harsh @ Shanti s/o Hans Raj and Paras @ Banti s/o Lakhan Lal. Siddhant alleged to have suffered supplementary statement on 22.07.2017 and in this process, the police party

officials had raided the premises of petitioner Nos.5 and 6 and in that process, the other family members of the petitioners i.e. petitioner Nos.1 to 4 and 7 to 9 helped respondent Nos.5 and 6 in escaping and seized the investigation file and attempted to cause injuries on the persons of the police officials. It is in this backdrop of the matter, the offences aforementioned have been registered. There is delay of 3/4 days in lodging the FIR. As per the averment in the petition, it is an afterthought as they have not taken any permission from the Court for conducting further investigation and on their own raided the premises.

Per contra, learned State counsel on instructions from ASI Lok Pal, Police Station Bilaspur, District Gurugram submits that the allegation in the FIR is self-sufficient and is a pointer for causing obstruction in the performance of the duty of police officials and rightly so, the custodial interrogation of the petitioners would be required, therefore, concession of anticipatory bail should not be granted. The raid was conducted on 07.08.2017 at 10 PM in the night after supplementary statement recorded on 22.07.2017, thus, urges this Court for dismissal of the petition.

I have heard learned counsel for the parties, appraised the paper book and of the view that apparently it appears to be a case of an afterthought. A police party for the purpose of further investigation has to take permission from the Court for conducting raid and entry to be made in this regard in the register of the concerned police station. Photocopy of the entry in the register passed on to this Court does not reflect any date of their alleged raid for the purpose of arresting petitioner Nos.5 and 6.

It is an apparent case of dereliction of duty. Even permission of the Court has not been sought. Rather an application should have been

moved to the Court when the complainant wanted to record supplementary statement or had suffered a supplementary statement for further investigation.

Without commenting upon the merits and demerits of the case, which would be subject matter of adjudication at the time of investigation/trial, I deem it appropriate to grant concession of anticipatory bail to the petitioners. Resultantly, the petition is disposed of by granting anticipatory bail to the petitioners on the condition that that they shall join the investigation as and when required and in the event of their arrest, they shall be released on bail by the Investigation Officer on their furnishing bail bonds/sureties to his satisfaction, subject to the conditions mentioned under Section 438(2) Cr.P.C.

(AMIT RAWAL)
JUDGE

September 22, 2017

Pankaj*

Whether reasoned/speaking Yes

Whether reportable No