

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

**CRM-M No.2497 of 2018 (O&M)  
Date of Decision: 19.03.2018**

**BRIJ NANDAN SINGH SOIN AND ANR.**

**.....Petitioners**

**Vs**

**UT OF CHANDIGARH**

**.....Respondent**

**CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH***

Present: Dr. Anmol Rattan Sidhu, Sr. Advocate with  
Ms. Shweta Nahata, Advocate and  
Mr. Narinder Mahajan, Advocate  
for the petitioners.

Mr. Rajeev Anand, APP for UT Chandigarh.

Mr. Kanwal Pal Singh Sidhu, Advocate  
for the complainant.

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**RAJ MOHAN SINGH, J.**

Petitioners seek grant of anticipatory bail under Section 438 of Code of Criminal Procedure in case bearing FIR No.374 dated 13.12.2017, registered under Sections 380 & 34 IPC at Police Station West 11, District Chandigarh.

The FIR was registered at the instance of Nina Soin/divorced wife of petitioner No.1 with the allegations that when she was in Singapore with her elder son to get him enrolled in Singapore Army, petitioner No.1 made theft of jewellery in the house to which the complainant was owner to

the extent of 50% share i.e the ground floor, which came to her share as per settlement of partition. The stolen jewellery was claimed to be of worth Rs.50 lakhs and cash amount of Rs.1 lakh was also lying in the house.

On 22.01.2018, following order was passed by this Court:-

*“Learned senior counsel for the petitioners contends that the complainant is a divorced wife of petitioner No.1. In respect of occurrence dated 14.10.2017, son of petitioner No.1 and the complainant made a complaint to the police which was ultimately got withdrawn by the son on 12.12.2017.*

*Notice of motion for 15.03.2018.*

*In the meanwhile, petitioners are directed to appear before the SHO/Investigating Officer to join investigation on 28.01.2018 and in the event of their arrest, they shall be enlarged on ad interim bail, subject to the satisfaction of Arresting Officer. However, petitioners shall abide by the conditions incorporated under Section 438(2) Cr.P.C.*

*At this stage, Mr. Arvind Kashyap, Advocate, appears on behalf of the complainant.”*

Learned Senior counsel for the petitioners submitted that petitioner No.1 and the complainant could not pull on their matrimonial life and as a result of that mutual settlement was arrived at between them and as a result of that petitioner No.1 paid the settlement amount of more than Rs.3,26,00,000/- to the

complainant besides transferring ownership of one Toyota Fortuner Car and 50% share in the House No.1152, Sector 15-B Chandigarh which was in the name of the petitioner No.1.

Learned Senior counsel further submitted that no such theft was ever committed by petitioner No.1, rather the complainant has tried to exert pressure on petitioner No.1 in order to grab the entire property as petitioner No.1 has already filed civil suit on 03.11.2017 wherein the complainant has already appeared on 05.12.2017. The lodging of FIR is a tactical approach to put pressure on petitioner No.1 to withdraw the suit. The entry of petitioner No.1 in the house to which he is co-sharer to the extent of 50% was permissive as on 14.10.2017, petitioner No.1 went to the house to fetch the dog as per request of his elder son. The lodging of FIR on 13.12.2017 in respect of occurrence dated 14.10.2017 was delayed by two months, for which no plausible explanation has come forth from the complainant side. The alleged breaking up of locks and *almirah* could not be substantiated by the prosecution in terms of any incriminating material collected by the Police. The photographs allegedly clicked have not come forth on police record being allegedly destroyed by the previous Investigating Officer against whom the complainant has made allegations and got him transferred. No recovery of broken locks

and cupboards has been made.

Learned Senior counsel further submitted that second son of the petitioner has executed an affidavit dated 19.01.2018 deposing that the FIR in question is false and the allegations levelled by his mother are frivolous in nature. His mother was in Singapore along with his brother on 14.10.2017 and she was not present in the house. The complaint was lodged by him and the same was withdrawn on 12.12.2017 after making statement that the allegations of theft against his father were false and no such theft was ever committed by petitioner No.1.

On the other hand, learned State counsel duly assisted by learned counsel for the complainant opposed the prayer made by petitioners for the grant of anticipatory bail in tooth and nail by submitting that jewellery in question was ancestral in nature as the same was given by mother-in-law of the complainant to her, therefore, the same was having great significance. Maidservant informed the complainant about the incident and complaint was made by the complainant through e-mail.

After hearing both the sides, I *prima facie* find that the material collected so far by the prosecution does not *prima facie* show any link viz-a-viz. establishing breaking up of door and *almirah* as no inventory was prepared by the Police, rather the

photographs allegedly collected have not come forth on the plea that the same were destroyed by the earlier Investigating Officer.

The ownership of the house to the extent of 50% share would make petitioner No.1 entitle to passage of house in question on permissive note. The FIR is delayed by two months and the parties are living separately on account of mutual divorce which was granted after paying the settlement amount to the complainant besides transferring ownership of vehicle make Toyota Fortuner and share to the extent of 50% in House No.1152 Sector 15-B, Chandigarh.

At this stage, without adverting to the merits of the case, I deem it appropriate to grant concession of anticipatory bail to the petitioners.

In view of above, petition is allowed. Interim order dated 22.01.2018 is made absolute.

Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

March 19, 2018

*Atik*

**(RAJ MOHAN SINGH)  
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No