

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

CRM-M-30551-2018

Date of Decision: 24.07.2018

Sumet Pal Singh and another

...Petitioners

vs.

State of Punjab

..Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. D.S.Sobti, Advocate
for the petitioners.

Mr. M.S.Nagra, AAG, Punjab.

Mr. Y.S.Dhillon, Advocate
for the complainant.

ARVIND SINGH SANGWAN,J.

Prayer in this petition is for grant of anticipatory bail to the petitioners in case FIR No. 133 dated 03.07.2018, under Sections 323/341/380/506/448 and 511 of IPC, registered at Police Station Phase-I, SAS Nagar, Mohali.

As per the allegations in the FIR, complainant-Hari Narayan is a tenant in a cabin in backside of SCF No. 63, First Floor, Phase-5, Mohali. On 29.06.2018, the petitioners alongwith their mother Manmeet Kaur, who is the owner of SCF No. 63, broke open his shop by breaking locks and have stolen articles i.e. mobile accessories, 08 computers and printers, valuing approximately Rs.3,50,000/- and have also thrown the air conditioner fitted in his cabin. It is further stated in the FIR that when the complainant came back from the marriage of his brother on 02.07.2018, finding that locks of his cabin were broken and articles missing, he started

inquiring about the same, in the meantime, the petitioners alongwith their mother and 5-7 other persons reached there and started beating him and his brothers. It is further stated in the FIR that the accused persons have also forcibly installed an electricity panel in the cabin of complainant and due to which, a mishap can take place as adjoining cabin is a gun-house where lots of arms and ammunitions are kept.

Counsel for the petitioners submits that complainant is a tenant over a part of the property since 2004 and mother of the petitioners has purchased the property on 02.03.2018. It is further submitted that even the mother of the petitioners has lodged a complaint with the police authorities with regard to the property and she has also filed a suit for injunction against the complainant and other persons, restraining them from interfering in the renovation work undertaken by her. Counsel for the petitioners has also submitted that even the complainant alongwith other tenants have filed a suit for permanent injunction against one of the petitioners, namely, Sumet Pal Singh and their mother, praying for decree for permanent injunction from forcible dispossession.

Counsel for the petitioners has relied upon photographs/CDs to submit that the portion where the electricity panel has been installed, is not in possession of the complainant. He further argued that except the offence punishable under Section 380 IPC, other offences are bailable and the allegation of theft has been falsely made as mother of the petitioners is owner of the property.

In reply, learned State counsel assisted by learned counsel for the complainant, has, however, opposed the prayer for anticipatory bail on the ground that the petitioners and their mother, who has recently purchased

the property, instead of resorting to her legal right, as per law, to obtain the possession from the complainant who is a tenant and in possession since 2004, are using muscle power and are trying to take forcible possession.

Learned counsel for the complainant has submitted that two days immediately after purchasing the property, a similar attempt was made and FIR No. 52 dated 30.03.2018 under Sections 341/323 and 506 IPC was registered at Police Station Phase-I, District SAS Nagar on the statement of another tenant, namely, Akashdeep, who is running gun house in the adjoining cabin. Counsel for the complainant has relied upon order dated 21.04.2018, passed in civil suit No. 214 of 2018, filed by aforesaid Akashdeep (complainant in FIR No. 52) and the present complainant-Hari Narayan with two other tenants, namely, Amrit Pal Singh Bhambra and Yatin Gupta against the owner Manmeet Kaur and one of the petitioners Sumet Singh, wherein the defendants (including petitioner No.1-Sumet Pal Singh and his mother Manmeet Kaur), had made a joint statement that they will not dispossess the plaintiffs forcibly from the premises in dispute and will take the possession in due course of law. Consequently, the said suit was dismissed as withdrawn vide order dated 21.04.2018. Despite this undertaking, daringly, the petitioners in gross violation and in a contemptuous manner, flouted the undertaking given by them before the Civil Court and are trying to take forcible possession by causing injuries to the complainant and his brothers.

After hearing learned counsel for the parties, I find no ground to grant anticipatory bail to the petitioners for the following reasons:-

a. Despite giving an undertaking dated 21.04.2018 given before the civil Court by petitioner No.1 and his mother Manmeet

Kaur (owner of the property) that they will not evict the complainant except in due course of law, they have forcibly broke open the door of the cabin of the complainant and have committed the offence of theft;

b. Even on an earlier occasion, another FIR No. 52 dated 30.03.2018 was registered against the petitioner(s) and their mother on the statement of another tenant, namely, Akashdeep which shows that they are trying to take forcible possession of the property in question in any manner;

c. There are allegation of commission of theft in the cabin of the complainant which requires custodial interrogation for recovery of stolen property.

In view of the above, finding no merit in the present petition, the same is dismissed.

24.07.2018
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(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned : Yes/No.
Whether Reportable : Yes/No