

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

Sr. No.202

CRM-M-49035-2017 (O&M)
Date of decision : 13.03.2018

Subash Chander and another

..... Petitioners

VERSUS

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Satbir Gill, Advocate, for the petitioners.

Mr. Nishchal Mann, DAG, Haryana.

Mr. P.K. Ganga, Advocate, for the complainant.

SUDHIR MITTAL, J. (Oral)

CRM-9074-2018

Notice of the application.

Mr. Satbir Gill, Advocate, for the petitioners, has no objection if the same is allowed.

Thus, the application is allowed and applicant-Bharat Bhushan son of Mohan Lal, resident of M/s Bharat Bhushan, Rania Gate, Neard Red Cross Office, Sirsa, is impleaded as respondent No.2.

The Registry is directed to carry out the necessary correction in the memo of parties. Annexure R-2/1 is also taken on record.

CRM-M-49035-2017

The petitioners seek anticipatory bail in case FIR No.895 dated 15.11.2017, registered at Police Station City Sirsa, District Sirsa, under Sections 147, 148, 149, 323, 342, 379, 452 and 506 IPC.

It is not in dispute that pursuant to interim order dated 21.12.2017, the petitioners have joined investigation.

The FIR has been registered on the allegations that the petitioners and others forcibly entered the shop of the complainant armed with danda and sharp edged weapons. They disconnected the CCTV cameras and attacked the complainant and looted the shop. While leaving they locked the shop.

Learned counsel for the petitioners has drawn the attention of this Court to order dated 28.02.2017 passed by the Addl. Civil Judge (Sr. Divn.), Sirsa, whereby interim injunction has been granted in favour of the son of petitioner No.1 in a suit for injunction filed by him regarding the same shop in dispute in the FIR. He has also drawn attention towards the civil suit dated 20.11.2014 (Annexure P-2), whereby the complainant has sought a decree for specific performance in respect of the same shop. His contention is that these documents conclusively show that the petitioners are in possession and therefore, the FIR is false. He also states that the suit for specific performance has subsequently been dismissed on 16.01.2018. It is also stated that order dated 21.12.2017 has been complied with and Rs.50,000/- has been deposited with the learned trial Court, but the same may not be released to the complainant during the pendency of the civil litigation.

On the other hand, learned counsel for the complainant contends that the petitioners and others have caused damage to his property and the report of the surveyor is Annexure R2/1, according to which, the property has suffered damage worth Rs.48,061/-. He has also referred to the photographs annexed with his application for impleadment, to contend that in fact, the complainant is in possession of the said shop and keeping in

view the circumstances of this case, the petitioners are not entitled to grant of anticipatory bail.

Keeping in view the fact that pursuant to interim orders passed by this Court, the petitioners have joined investigation and also that from the documents of the civil suits placed on record, prima facie, it appears that the petitioners are in possession of the property in dispute, interim bail granted to the petitioners vide order dated 21.12.2017, is made absolute. It is further directed that sum of Rs.50,000/- deposited with the learned trial Court shall not be disbursed to either of the parties till finalization of the civil Court proceedings. The said sum be released in favour of the party emerging victorious in the civil litigation.

Nothing stated hereinabove shall be construed as expression of opinion on merits of the case.

(SUDHIR MITTAL)
JUDGE

13.03.2018

Ramandeep Singh

Whether speaking / reasoned

Yes / No

Whether Reportable

Yes/ No