

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

**CRM-M No.5986 of 2018
Date of Decision: 22.03.2018**

Jaffar

.....Petitioner

Vs

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Gautam Dutt, Advocate
for the petitioner.

Mr. M.D. Sharma, A.A.G., Haryana.

RAJ MOHAN SINGH, J.

[1]. Petitioner has preferred this petition for grant of anticipatory bail under Section 438 Cr.P.C in case bearing FIR No.2 dated 07.01.2018, registered under Sections 364-A, 386, 395, 420, 120-B IPC at Police Station Rojka Meo, District Nuh.

[2]. As per FIR, the complainant-Liya Abdul Shakur alleged that he was running the business of cloth and was a responsible person of Islamic Centre. *Tabliki* community from Mewat used to visit his place in Gujarat. The persons from Mewat usually used to take their mobile numbers and were involved in exchange of pleasantries. Petitioner was also exchanging pleasantries with

the complainant and his relatives for some time. Petitioner made a call to the relative of complainant Najima Khan and informed that he was in trouble. Complainant talked to the petitioner. Petitioner disclosed about financial requirement arising out of agreement of land, wherein he was in need of Rs.21 lakhs. Petitioner asked for financial help and also offered land or gold in lieu thereof. Complainant along with Najima Sheikh came on 26.12.2017 to the disclosed place in HUDA City Centre, Gurgaon, where the petitioner, Rafiq and Mubin were found standing with a car. Complainant along with the petitioner reached IMT Mewat. Complainant was shown the land and also some gold biscuits. Taking of gold was refused by the complainant as he was to return by air. On asking of the petitioner, complainant promised to pay an amount of Rs.21 lakhs. An amount of Rs.1 lakh was given and the remaining was assured to be paid on the next visit of the complainant. Complainant and his companion were dropped back at HUDA City Railway Station, Gurgaon.

[3]. Thereafter continuous talks were held on telephone. Complainant agreed to purchase the land for profit. On 31.12.2017, the complainant after collecting some amount and borrowing some amount from his friends arranged Rs.19 lakhs as the petitioner was pressing hard for the same. Complainant

all alone reached Delhi by air and thereafter contacted the persons on telephone. On 02.01.2018, the accused party made a call to the complainant and asked him to reach Sohna Bus Stand. At about 7/7.30 p.m., the complainant reached Sohna Bus Stand with money, where he found Mubin, Rafiq and petitioner standing with a vehicle. They took the complainant into vehicle to an isolated jungle behind the IMT Rojka Meo. Meanwhile, two other companions of the accused persons also joined them, whose names were came to be known as Sahun and Hasin. All of them told the complainant that there was no land available. They also disclosed that they were the persons of Aman, District Chief, Iman District Councilor and Jamshed Advocate of Nagina. They snatched the bag full of money. On making noise, Wasim, Jakar, Mubin, Ahmed and 8-10 more persons from the nearby villages attracted to the spot. On seeing the aforesaid person, the accused fled away from the spot along with the money.

[4]. Evidently, the incident of snatching took place on 02.01.2018, the complainant kept on calling the respectables i.e. Iman Councilor, Mubarik and Aman Ahmed Chief, who assured the complainant not to go for police action as they will get the things settled. The FIR came to be lodged only on 07.01.2018 on the written complaint of complainant.

[5]. Before lodging of the aforesaid FIR, the petitioner had filed a Crl. Writ Petition No.4 of 2018 for issuance of roving writ in the nature of habeas corpus, for the appointment of Warrant Officer and for directions to get released the detenues namely Mubin son of Dalli, Rafiq son of Rujdar and Samshu Dudhia from the illegal custody of Jamal Sarpanch, Sohrab Ex-Sarpanch of village Khedli Kankar, Mufti Zahid, Waseem, Najmi Khan and Abdul Sakur.

[6]. In the aforesaid crl. writ petition, a Warrant Officer was appointed by the High Court on 03.01.2018 with a direction to visit all the places as may be pointed out by the petitioner and if the detenues are found in illegal custody of the aforesaid persons, they be set free and report be submitted to the Court. The Warrant Officer visited the spot in order to find out whereabouts of the alleged detenues. A report was submitted to the Court on 06.01.2018. Thereafter the FIR in question came to the registered.

[7]. As per report of the Warrant Officer, the alleged detenues were not found present at the time of visit of the Warrant Officer on 04.01.2018 at the disclosed placed. The persons namely Sohrab and Waseem made statements before the Warrant Officer that the detenues were arrested by the Gujarat Police. The said statement was found to be

untrustworthy as no police party from Gujarat had visited the police station Nuh or Rozka. The said fact was verified from the statement of ASI Shish Pal, PS Rozka that no police party from Gujarat had visited the police station or took any help from the local police. No information regarding any arrest of Mubin, Rafiq and Samshu Dudhia was given by Sarpanch of village Khedli Kankar to the police or regarding search by Gujarat police in the village.

[8]. The statement of Sohrab and Waseem in the context of arrest of alleged detainees by the Gujarat police was considered to be baseless by the Warrant Officer as the Gujarat police has not made any entry or information in the local police station Nuh. As per report submitted by the Warrant Officer, the detainees namely Mubin, Rafiq and Samshu Dudhia appeared to have been kept by the private persons named in the said crl. writ petition at a secret place which could not be pointed out by the petitioner as Waseem had openly threatened to the petitioner to bring the amount of Rs.20 lakhs to get them released i.e. the amount which was taken from Gujarat Madrasa.

[9]. The perusal of the facts involved in the present petition would show that the background in which the above said crl. writ petition i.e. CRWP No.4 of 2018 was filed has necessary

connection with the prayer made in this petition for grant of anticipatory bail. In respect of occurrence dated 02.01.2018, the FIR was got registered by the complainant on 07.01.2018. The said delay in lodging of FIR was on the ground that the complainant met the respectables of the village, who assured him to get the amount returned. The case appears to be debatable as to the role of the petitioner.

[10]. In view of above, the present petition is allowed. Petitioner is directed to appear before the Investigating Officer on 28.03.2018 at 11:00 a.m. In the event of his arrest, he shall be granted bail by the Arresting Officer subject to following conditions as envisaged under Section 438(2) Cr.P.C:-

- i) that the petitioner shall make himself available for interrogation before the Investigating Officer as and when required;
- ii) that the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;
- iii) that the petitioner shall not leave the country, without prior permission of the Court and shall surrender his passport, if any.

[11]. In the event of non-cooperation by the petitioner in the

investigation, the Investigating Officer would be at liberty to seek
cancellation of bail in accordance with law.

March 22, 2018

Atik

(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned Yes/No

Whether reportable Yes/No