

CRM-M-7326-2018

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

**CRM-M-7326-2018**

**Date of Decision: 28<sup>th</sup> February, 2018**

**Smt. Sheela & others**

...Petitioners

Versus

**State of Haryana**

...Respondents

**CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH**

Present: Mr. Jasjit Singh Bedi, Senior Advocate with  
Mr. Lovekirat Singh Chahal, Advocate  
for the petitioners.

Mr. Sharad K. Yadav, DAG, Haryana.

Mr. Keshav Partap Singh, Advocate  
for the complainant.

\*\*\*\*\*

**AUGUSTINE GEORGE MASIH, J. (ORAL)**

Petitioner has approached this Court for grant of anticipatory bail in the light of registration of FIR No.183 dated 16.03.2017, at Police Station Samalkha, District Panipat, under Sections 148, 149, 323, 379-B, 325 and 506 of the Indian Penal Code, against them with a prayer that they should be granted anticipatory bail as initially, Section 379-B of the Indian Penal Code (hereinafter referred to as 'IPC') was deleted from the FIR but at the time of presentation of challan, the said offence has been included and because of that, when they had approached the Court after presentation of challan for grant of anticipatory bail, the said application has been dismissed because of non-disclosure on the part of the petitioners that they

CRM-M-7326-2018

had earlier moved a similar application for grant of anticipatory bail and on the ground that this Court, vide its order dated dated 15.01.2018 (Annexure P-9) passed in CRM-M-40656-2017, which was for grant of anticipatory bail, had been disposed of by the Court without confirming the order of anticipatory bail, which was initially granted to the petitioners on 07.11.2017 (Annexure P-8).

2. It is the contention of the learned senior counsel for the petitioners that at the time, when the earlier application for grant of anticipatory bail was moved, at that stage, initially with the deletion of Section 379-B of IPC, petitioners were granted regular bail by the trial Court. After the grant of regular bail, during investigation, Section 379-B of IPC was reintroduced, because of which, an application for grant of anticipatory bail was moved before the learned Additional Sessions Judge, Panipat, which was dismissed. Petitioners approached this Court by filing CRM-M-40656-2017, wherein, initially, they were granted interim bail which was subsequently disposed of by this Court on 15.01.2018 (Annexure P-9) in the light of the fact that the challan had been presented. Counsel submits that although, as a matter of fact, there was no intentional omission on the part of the petitioners regarding not mentioning of the earlier anticipatory bail application filed before the trial Court when the subsequent application for grant of anticipatory bail was moved in the light of the order dated 15.01.2018 passed by this Court. On merits also, the order passed by the learned trial Court dated 12.02.2018 while rejecting the second anticipatory bail application cannot sustain on the facts as well. He

contends that going by the challan, copy whereof has been appended as Annexure P-6, the allegations against the co-accused of the petitioners, namely, Surat Singh is that he had snatched the revolver of complainant-Naib Singh along with five cartridges but there is no mention with regard to snatching of gold ear rings or gold chain from Shakuntla Devi, wife of the complainant. Further, referring to the challan, he states that the allegation with regard to the snatching of revolver along with cartridges is attributed solely to Surat Singh and it has specifically been mentioned that the other did not have any role in the same or there was no pre-planning in this regard. He, thus, contends that the rejection of the application by the trial Court of the petitioners vide order dated 12.02.2018 cannot sustain. Prayer has, thus, been made for grant of the concession of bail as has been prayed for.

3. Learned counsel for the State, on instructions from ASI Parmod Kumar, P.S. Samalkha, District Panipat, has submitted that as per the CCTV camera coverage, the involvement of the petitioners along with co-accused in the commission of offences as a whole is made out and therefore, it cannot be said that 379-B of IPC would not apply to the petitioners. Similar stand is taken by the learned counsel for the complainant, who further states that from the CCTV camera coverage, all the petitioners are involved in the commission of offences and three of the complainant's family members were beaten very badly, out of which, one has received a fracture on the head by iron rod. His contention is that the snatching of gold ear rings and gold chain of the wife of the complainant also is there, as earlier to this

incident, there was another incident, when such an act had taken place and for that, the complainants had gone to the police station for lodging FIR and it is, on return therefrom that the second incident has taken place where the beatings were given and the revolver along with five cartridges have been snatched. He further contends that the second anticipatory bail application is not maintainable before this Court in the light of the non-acceptance of the first anticipatory bail application of the petitioners vide order dated 15.01.2018. Counsel, thus, pray that the present petition be not allowed.

4. I have considered the submissions made by the learned counsel for the parties and with their assistance have gone through the order dated 12.02.2018 passed by the Additional Sessions Judge, Panipat, on the second anticipatory bail application moved by the petitioners as also copy of challan (Annexure P-6), which has been presented in the trial Court.

5. I find that the submissions of the learned senior counsel for the petitioners are clearly borne out from the challan. There is no allegation with regard to snatching of gold ear rings or gold chain of the wife of the complainant. What is there with regard to Section 379-B of IPC is snatching of a revolver along with five cartridges from the complainant by one Surat Singh, co-accused of the petitioners. As regards the other offences, petitioners have already been granted regular bail and it is, because of addition of Section 379-B of IPC, the petitioners had to again approach the Court for grant of anticipatory bail. It would not be out of way to mention here that in the challan, it has specifically been said that except

for Surat Singh, other accused were not having any pre-planning for snatching of the revolver and cartridges and as per the circumstances, they could not be included and therefore, it cannot be said that the petitioners, according to challan, as of now, were involved in the commission of an offence under Section 379-B of IPC.

6. As regards the contention of the learned counsel for the complainant that second anticipatory bail application is not maintainable, suffice it to say that while disposing of CRM-M-40656-2017 vide order dated 15.01.2018, this Court had specifically given liberty to the petitioners to again approach the trial Court for the remedy in accordance with law, which they had availed by filing an application for grant of anticipatory bail, unfortunately, because of oversight of the counsel an inadvertent error occurred, whereby, there was no mention of rejection of the earlier bail application to the same Court, which appears to be correct. That apart, the other ground on which the second anticipatory bail application has been rejected by the learned Additional Sessions Judge, Panipat, is not borne out from the challan, which has been presented by the investigating agency as discussed above. There is no mention with regard to the snatching of gold ear rings or gold chain of the wife of the complainant and further, the revolver, which is snatched along with five cartridges, is attributed to co-accused Surat Singh only. It may not be out of way to mention here that the revolver along with cartridges, which was snatched by Surat Singh, was surrendered by him in the police station on 15.03.2017, which is a day prior to registration of the FIR i.e. 16.03.2017. All four petitioners are women

and therefore, are also considered to be liable for grant of concession as prayed for.

7. In view of the above, the present petition is allowed. Petitioners are granted the concession of anticipatory bail. Let the petitioners appear before the trial Court on 01.03.2018, the date fixed before the trial Court in the trial and on moving an application, they shall be admitted to regular bail to its satisfaction.

28<sup>th</sup> February, 2018  
*Harish*

( AUGUSTINE GEORGE MASIH )  
JUDGE

|                            |        |
|----------------------------|--------|
| Whether speaking/reasoned: | Yes/No |
| Whether Reportable:        | Yes/No |