

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

(i) CRM M-34459-2018 O&M)

Rajinder Kaur and another

..... Petitioners

Versus

State of Punjab and another

..... Respondents

(ii) CRM M-39819-2018 O&M)

Gursharan Singh

..... Petitioner

Versus

State of Punjab and another

..... Respondents

Date of Decision : 07.03.2019

CORAM : HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present : Mr. Manuj Nagrath, Advocate
for the petitioners.

Mr. Ramdeep Partap Singh, DAG, Punjab.

Mr. Parminder Singh, Advocate
for respondent No.2-complainant.

RAJ SHEKHAR ATTRI, J. (Oral)

This order shall dispose of Criminal Misc.No.M-34459-2018, filed by petitioners Rajinder Kaur and Paramjit Kaur and Criminal Misc.No.M-39819-2018, filed by Gursharan Singh, under Section 438 Cr.P.C. for grant of anticipatory bail in case FIR No.65 dated 29.07.2015, registered under Sections 454, 380, 354, 392, 342, 411, 34 IPC, at Police Station Cantt. Bathinda, District Bathinda.

The complainant is a stranger to Bathinda city. He took rental accommodation of Smt. Jatinder Kaur for the purpose of giving coaching to

the students. He was residing therein alongwith his family members. It is alleged that the complainant's wife was picked up by the police in the absence of the complainant. It is further alleged that petitioners alongwith his associates armed with deadly weapon entered the house of the complainant and took away the entire household articles and they tried to forcibly take possession.

It has been argued that the name of the petitioners are not mentioned in the FIR yet the same was incorporated after recording supplementary statement of Smt. Aprajita, wife of the complainant

I have heard the counsel for the parties and have gone through the record.

The remedy of anticipatory bail is extraordinary and should be used in exceptional cases. The Hon'ble Supreme Court in ***Siddharam Satlingappa Mhetre vs. State of Maharashtra and others 2011 AIR (SC) 312*** pleased to issue the following parameters:-

“122. The following factors and parameters can be taken into consideration while dealing with the anticipatory bail :

i. The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made;

ii. The antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a Court in respect of any cognizable offence;

iii. The possibility of the applicant to flee from justice;

iv. The possibility of the accused's likelihood to repeat similar or the other offences.

v. Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her.

vi. Impact of grant of anticipatory bail particularly in cases of large magnitude affecting a very large number of people.

vii. The courts must evaluate the entire available material against

the accused very carefully. The court must also clearly comprehend the exact role of the accused in the case. The cases in which accused is implicated with the help of sections 34 and 149 of the Indian Penal Code, the court should consider with even greater care and caution because over implication in the cases is a matter of common knowledge and concern;

viii. While considering the prayer for grant of anticipatory bail, a balance has to be struck between two factors namely, no prejudice should be caused to the free, fair and full investigation and there should be prevention of harassment, humiliation and unjustified detention of the accused;

xi The court to consider reasonable apprehension of tampering of the witness or apprehension of threat to the complainant;

x Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail.”

In this case the petitioners decamped away with household articles and ran away from the place of occurrence. Even some of the articles have been damaged.

In view of aforesaid, the petitioners are required for custodial interrogation.

Therefore, finding no ground to grant the benefit of anticipatory bail to the petitioners, both the aforesaid petitions stand dismissed.

07.03.2019
mamta

(RAJ SHEKHAR ATTRI)
JUDGE

Whether speaking/reasoned
Whether Reportable :

Yes/No
Yes/No