

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

**CRM-M No.47633 of 2018
Decided on: 05.02.2019**

Abhishek Kapoor @ Ishu

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Prateek Pandit, Advocate for the petitioner.

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

Mr. Rishab Gupta, Advocate for the complainant.

ARVIND SINGH SANGWAN, J. (Oral)

The petitioner prays for grant of anticipatory bail in FIR No.152 dated 02.10.2018, registered under Sections 453, 380 IPC at Police Station City Hoshiarpur, District Hoshiarpur.

The operative part of the order dated 15.11.2018, vide which interim anticipatory bail has been granted to the petitioner, is reproduced as under:-

“...Learned counsel for the petitioner submits that as per the allegations in the FIR, the complainant's and petitioner's family are residing in the same house and after the death of complainant's husband, namely, Rajiv Kumar, there was a settlement between the families and the complainant used to keep her jewelry in the bank locker and some jewelry was kept in the Godrej Almirah on 3rd floor of the house. It is further stated in the FIR that the complainant checked her jewelry box on 26.09.2019 and 27.09.2018 as there was a talk in the Sarafan Bazar (jewelry market) that on the intervening night of 26/27.09.2018, some theft has taken place in the shop of

Nazir son of Issa, who is also a jeweler. When the complainant had seen the CCTV footage of the shop, she recognized the petitioner as a person who had covered his face with handkerchief and was committing theft with the light of the mobile phone. It is further stated in the FIR that, thereafter, on 01.10.2018 when the complainant had gone to the market, she saw that petitioner-Abhishek Kapoor @ Ishu was roaming on the roof of her portion and the lock of her house was broken and he has committed theft of jewelry in her house.

Counsel further submits that with regard to the alleged incidence, in which the theft in the shop of Nazir has taken place, no police complaint was filed by said Nazir and as per the allegations in the FIR, the theft in the house of the complainant was committed on 27.09.2018 whereas the FIR was registered on 02.10.2018 with the allegations that on 01.10.2018, the complainant has seen that the petitioner was roaming on the roof in portion of her house.

Learned counsel for the petitioner further submits that the entire allegations are based on suspicion and since, there is a dispute regarding the family property, the petitioner has been falsely implicated in the present case.

Learned counsel further submits that the petitioner is not a previous convict and is not involved in any other case and, in fact, the father of the petitioner intended to sell his portion of house in order to settling the petitioner abroad and, therefore, the petitioner has been falsely implicated in this case.

Learned State counsel, on instructions from the Investigating Officer, and assisted by learned counsel for the complainant, submits that the petitioner has committed theft in the house as per the allegations in the FIR and, therefore, his custodial interrogation is required.

However, considering the submissions made by learned counsel for the petitioner, I deem it appropriate, at this stage, to direct the petitioner to appear before the Investigating Officer on 26.11.2018 at 10:00 A.M. and join investigation. On his doing so, he shall be released on interim bail subject to the following conditions:-

- 1. He shall make himself available for interrogation by a police officer as and when required;*
- 2. He 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; and*
- 3. He shall not leave India without previous permission of the Court.*

List again on 22.01.2019.”

Counsel for the petitioner has submitted that, in pursuance to the order dated 15.11.2018, the petitioner has appeared before the Investigating Officer and has joined the investigation.

Counsel for the State, on instructions from SI Sukhwinder Singh, has not disputed the aforesaid fact and submits that the petitioner is no more required for further investigation. However, counsel for the complainant has submitted that certain gold articles as mentioned in the FIR, have not been recovered from the petitioner.

In view of the above, this petition is allowed and the interim bail granted to the petitioner vide order dated 15.11.2018 is made absolute subject to the conditions envisaged under Section 438(2) Cr.P.C.

(ARVIND SINGH SANGWAN)
JUDGE

05.02.2019

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Whether speaking/reasoned

Yes/No

Whether reportable:	Yes/No
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