

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

1. CRM-M-52013-2018

Sandeep Kumar

...Petitioner

Versus

State of Punjab

...Respondent

2. CRM-M-52036-2018

Satnam Chand

...Petitioner

Versus

State of Punjab

...Respondent

Date of decision: 21.01.2019

CORAM:- HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. A. K. Khunger, Advocate
for the petitioner in both petitions.

Mr. Sidakmeet Sandhu, AAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

This common order shall dispose of above noted two petitions as they arise out of the same FIR.

These petitions have been filed under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail to petitioners Sandeep Kumar and Satnam Chand in case FIR No. 07 dated 24.05.2018, registered under Section 379 IPC, Section 70 of Canal Act and Section (3) of the Prevention of Damage of Public Property Act, 1984, registered at Police

Station Khui Khera, District Fazilka.

The operative part of the order dated 27.11.2018, vide which petitioners have been granted interim bail, is reproduced below:

“Learned counsel for the petitioners submits that brother/co-accused of the petitioners has already been granted concession of anticipatory bail, vide order dated 15.10.2018 passed in CRM-M-31076-2018. The operative part of the order reads as under:

“The petitioner prays for grant of anticipatory bail in FIR No. 07 dated 24.05.2018, under Section 379 IPC, Section 70 of Canal Act and Section 3 of Prevention of Damage of Public Property Act, 1984, registered at Police Station Khui Khera, District Fazilka.

The operative part of the order dated 25.07.2018, vide which the petitioner has been granted interim bail, is reproduced below:

“Counsel for the petitioner has submitted that the co-accused of the petitioner namely Bhajan Lal has already been granted the concession of interim anticipatory bail vide order dated 12.07.2018 passed in CRM-M No.28650 of 2018. It is further submitted that the FIR was registered on the basis of a secret information and even the petitioner was also not named in the FIR. It is further submitted that it will be a debatable issue whether the offence under Section 379 IPC read with Section 3 of the Prevention of Damage of Public Property Act, 1984 is made out in this case or not, in view of the provisions of Section 70(16) of the India Canal and Drainage Act, 1873. Counsel for the petitioner has further argued that the petitioner had undergone a heart surgery on 22.05.2018 at DMC Heart Institute, Ludhiana and he was discharged on 01.06.2018 and as such, he was not even advised to move out.

Notice of motion for 15.10.2018.”

Learned counsel for the petitioner submits that the petitioner, in pursuance to the order dated 25.07.2018, has already appeared before the SHO/Investigating Officer and has joined the investigation. Learned counsel for the State, on instructions from ASI Gurminder Singh, has not disputed the factual position and submits that the petitioner has joined the investigation and after investigation, he has been found innocent.”

Learned counsel for the petitioners further submits that now the petitioners are sought to be impleaded in the case. Notice of motion for 21.01.2019.”

Learned counsel for petitioners submits that in pursuance to the

order dated 27.11.2018, petitioners have already appeared before the SHO/Investigating Officer and have joined the investigation.

Learned counsel for the State, on instructions from ASI Charanjit Singh, has not disputed the factual position and submits that the petitioners have joined the investigation and are no more required for any further investigation.

In view of the above, without commenting anything on the merits of the case, these petitions are allowed and the interim bail granted to the petitioners, vide order dated 27.11.2018, is made absolute subject to the conditions envisaged under Section 438(2) Cr.P.C.

A photocopy of this order be placed on the file of other connected case.

January 21, 2019

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No