

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M- 11321 of 2020 (O&M)

Date of decision : 26.8.2020

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Soma and others

.....Petitioners

vs.

State of Punjab

.....Respondent

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. Arjun Veer Sharma, Advocate for the petitioners.

Mr. Randhir Thind, Deputy Advocate General, Punjab.

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H. S. Madaan, J. (Oral)

Case taken up through video conferencing.

This petition under Section 438 Cr.P.C. for grant of pre-arrest bail has been filed by petitioners Soma, aged about 69 years w/o Balraj @ Veela; Paramjit aged about 41 years, w/o Raj Kumar @ Raju; Babli aged about 36 years w/o Dalip and Bhoma aged about 61 years w/o Amarjit, all residents of village Ganna, Tehsil Phillaur, District Jalandhar, all of them being accused in FIR No. 14 dated 10.2.2020, for offences under Section 380/34 IPC, registered at Police Station, Daba, District Ludhiana.

Briefly stated, facts of the case, as per the prosecution version are that the criminal machinery in this case was set into motion by complainant Sukhpreet Kaur d/o Rajpal Singh, resident of Sahnewal, who in her statement got recorded with the police stated

that on 10.2.2020 at about 2.00 P.M., while she was sitting in her shop at village Lohara, where she sells cloth garments, then a car, white in colour bearing registration No. PB-11Z-7063 came and stopped in front of her shop. Four women, one of them carrying a child aged about 2 years came to her shop, whereas driver of the car who was having short cropped up hair, remained sitting in the car. Since, the women stated that they wanted to purchase the suits, they asked the complainant to show various suits. The complainant accordingly did so. In the meanwhile, one of the woman asked the complainant for a glass of water. The complainant went to the residential portion to bring water and returned after 5 minutes. She found that those women were carrying bags, having suits and were about to board the car. The complainant raised an alarm, which attracted various persons. However, the women managed to escape. The car driver was apprehended, who on being enquired, disclosed his name as Roshan Lal son of Mulakh Raj, r/o village Ganna, Police Station Phillaur. On checking, it was found that 4 ladies suit, Rs.15,000/- in cash and mobile phone of complainant make – Lava, having sim bearing No. 9814500911, had been stolen.

Formal FIR in this case was registered. The accused were nominated in this case. Apprehending their arrest, they had approached the Court of Sessions at Ludhiana, by filing two separate applications, for grant of pre-arrest bail. Those applications were assigned to Additional Sessions Judge, Ludhiana, who vide orders dated 24.2.2020, dismissed the same.

Feeling dissatisfied, the petitioners-accused have knocked at the door of this Court, craving for grant of similar relief, which prayer is being opposed by the State counsel.

I have heard learned counsel for the petitioners, learned State counsel, besides going through the record.

Learned counsel for the petitioners has contended that the petitioners are not named in the FIR and no recovery has been affected from them; the prosecution story is improbable, especially the accused having slipped away, one of them carrying a child of 2 years, when according to the complainant several people had gathered at the spot on her raising hue and cry. He stated that the petitioners were women and they are ready and willing to join the investigation. In the end he prayed that pre-arrest bail be granted to the petitioners.

Whereas learned State counsel has vehemently opposed the request, submitting that allegations against the petitioners are of serious nature and their custodial interrogation is necessary to affect the recovery of the stolen suits, cash amount and mobile phone of the complainant and further to find out the modus operandi being adopted by the petitioners in committing the crime and their involvement in other criminal cases. He has prayed for dismissal of the petition.

After considering the rival contentions and going through the record, I find that the present petition is doomed for failure.

It is well settled law that pre-arrest bail is a discretionary

relief and which is to be granted in exceptional cases and not in routine. It is meant to save the innocent persons from harassment and any inconvenience and not to shield the culprits from custodial interrogation.

In the instant case, there are serious allegations of the petitioners having come to the shop of the complainant and their committing theft of ladies suits, cash amount from the money chest as well as mobile phone of the complainant. Their custodial interrogation is definitely required to affect the recovery and to find out as to how the incident was planned and executed, the role played by each one of them, as to whether some other persons were involved in the plan and execution of the incident, the number of other crimes committed by the petitioners, etc. In case custodial interrogation of the petitioners is denied to the Investigating Agency, then the investigation shall be adversely affected, leaving many loose ends and loopholes, which is uncalled for.

As regard, the contentions raised by learned counsel for the petitioners that the prosecution story is improbable and petitioners are ready to join the investigation, this Court while considering the matter as to whether the petitioners are entitled to grant of pre-arrest bail or not, is not to minutely deal with the merits of the case, which is within the purview of the trial court. The petitioners make take all these pleas during the trial. But the same are not of much help to them before this Court, while praying for grant of pre-arrest bail.

With regard to the offer of the petitioners to join the

investigation, the same cannot be accepted for the reason that custodial interrogation of person accused is more elicitation oriented because such an accused, couched in comparative safety of pre-arrest bail, would certainly not disclose all the facts within his/her knowledge.

Therefore, finding no merit in the petition, the same stands dismissed.

However, nothing discussed above shall have any bearing on the merits of the case.

26.8.2020
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(H.S. Madaan)
Judge

Whether speaking / reasoned	Yes / No
Whether reportable	Yes / No