

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

202

**CRM-M-11631-2020
Date of decision: 19.08.2020**

Mahesh Bansal and anotherPetitioners

Versus

State of HaryanaRespondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Karan Singh, Advocate
for the petitioners.

Mr. Naveen Singh Panwar, DAG, Haryana
for the respondent-State.

ARUN KUMAR TYAGI, J (ORAL)

The case has been taken up for hearing through video conferencing.

Petitioners-**Mahesh Bansal and Seema Bansal** have filed this petition under Section 438 of the Code of Criminal Procedure, 1973 (for short, "Cr.P.C") for grant of anticipatory bail in case FIR No.58 dated 21.01.2020 registered under Sections 380, 447, 448, 451 and 506 read with Section 34 of the Indian Penal Code, 1860 at Police Station Shivaji Colony, Rohtak, District Rohtak.

The above said FIR was registered on statement of Mahender Lal Sharma, who alleged that house in question is under his possession for the last 2 ½ years and his articles are lying there. For the last about 09 months, Pardeep has been parking his car in the porch of his house and one of the keys remained with him. On 19.01.2020, when Pardeep visited the backside of the house, the neighbour told him that Mahesh Bansal and Seema Bansal (petitioners) broke open the

chain lock of porch of his house and took away steel gate and after breaking open the lock of inner gate put their own lock on the same. The petitioners had taken full amount from him through cheques and executed agreement to sell in respect of the house in question in his favour. The petitioners trespassed into the house, broke open the locks and took away the gate and put their lock on the inner gate.

On 08.05.2020, this Court had granted interim anticipatory bail to the petitioners with direction to join the investigation.

Learned State counsel has appeared on behalf of the respondent-State and opposed the bail application.

I have heard learned counsel for the petitioners as well as learned State counsel and have gone through the record.

Learned counsel for the petitioners has submitted that the petitioners have been falsely implicated in the present case. The petitioners are owners of the house in question. The petitioners had executed agreement to sell in favour of the complainant for Rs.14,00,000/- instead of Rs.13,50,000/- as mentioned therein. The complainant did not pay the balance amount of Rs.50,000/- to them and did not get the sale deed executed and registered. The complainant has given the dispute of a civil nature the colour of criminal offences. The petitioners have not committed any offence and have not stolen any gate. In compliance with order dated 08.05.2020 passed by this Court at the time of grant of interim anticipatory bail to the petitioners, the petitioners have joined the investigation 3/4 times but the police is pressurizing for recovery of alleged gate. Their custodial interrogation is not required in the case. Therefore, the petitioners may be granted

anticipatory bail.

On the other hand, learned State counsel has, on instructions from SI Sukhbir Singh, submitted that the petitioners did not join the investigation despite issuance of several notices and did not cooperate in recovery of the gate. Custodial interrogation of the petitioners is required for recovery of the gate and other articles. Therefore, the petition may be dismissed.

The petitioners are claiming themselves to be owners in possession of the house in question while the complainant is claiming the same to be in his possession on the basis of agreement to sell executed by the petitioners in his favour on making of full payment to them which fact is disputed by the petitioners. The dispute involved is preeminently of civil nature which appears to have been given the colour of criminal offences. In view of the dispute as to possession, question of recovery of the gate and other articles will also be subject to adjudication and order by the Civil Court.

Keeping in view these facts and circumstances of the case, nature of accusation against the petitioners and also the fact that no useful purpose will be served by detention of the petitioners in custody during investigation and trial which are likely to take long time but without meaning to comment on merits of the case, I am of the considered view that the petitioners deserve grant of anticipatory bail.

Therefore, the petition is allowed and order dated 08.05.2020 granting interim bail to petitioners-**Mahesh Bansal and Seema Bansal** is made absolute. However, the petitioners shall join the investigation as and when called upon to do so and shall abide by the

conditions enumerated in Section 438 (2) of the Cr.P.C., failing which the protection of anticipatory bail order shall not be available to them.

19.08.2020

Vinay

(ARUN KUMAR TYAGI)
JUDGE

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