

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

**CRM-M No.14059 of 2020 (O&M)
Date of decision: 05.06.2020**

Balwinder Singh and another

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr.Ishan Sharma, Advocate for the petitioner.

Ms. Bhawna Gupta, DAG, Punjab.

Mr. Vijay Rana, Advocate for the complainant.

SUVIR SEHGAL J.

CRM-12332-2020

Prayer in the application is for exemption from filing the requisite court fee as the same is not available because of the lockdown.

Application is disposed of with a direction that the petitioner will deposit the requisite court fee within a period of one week of the resumption of the normal functioning of the court.

CRM-M-14059-2020

Present petition under Section 438 Cr.P.C. has been filed by the petitioners, namely, Balwinder Singh and Kuljinder Singh, for grant

of anticipatory bail in FIR No.43 dated 10.03.2020 under Section 454, 380 IPC, 1860, registered at Police Station Sadar Kapurthala, District Kapurthala.

FIR was registered against unknown persons on the basis of statement of Piara Singh son of Sucha Singh wherein he alleged that the marriage of his brother, Hardeep Singh was fixed on 10.03.2020 and the Shagun Ceremony was fixed in the morning. He along with his family went to Subha Gurudwara Jag Bab Jogi Peer at around 10:30 am and while leaving he locked all the rooms and the main gate. At around 12:30 pm when he came back, he found that house had been broken into and that cash amount of Rs.4,70,000/-, gold ornaments and DVR of camera were missing. He was not sure of the total weight of missing gold items and mentioned that the same will be given later. In case some more missing items come to notice, the details of same will also be provided.

On 22.05.2020, he made a supplementary statement where he named four persons as suspects. Besides the two petitioners, he mentioned the names of Gurwinder Singh @ Gindu and Gurpreet Singh @ Gopi. Both the said accused were arrested and in their disclosure statement, they named the present petitioners.

Counsel for the petitioners has submitted that the petitioners belong to respectable agriculturist family of the village and that a false FIR has been registered against them due to personal enmity. His argument is that there was a delay of more than 9 hours in registration of the FIR and the supplementary statement before the Investigating Officer was made more than two months after the occurrence of the alleged

incident. He has placed reliance upon documents Annexures P-3 and P-4 to submit that both the petitioners were not present at the alleged place of occurrence.

Notice of motion.

Ms. Bhawna Gupta, DAG, Punjab accepts notice on behalf of the respondent-State. Advance copy of the petition has already been supplied to her.

State counsel assisted by counsel for the complainant have submitted that out of the four named accused, Gurwinder Singh @ Gindu and Gurpreet Singh @ Gopi had been arrested. In their disclosure statements, they had stated that cash, foreign currency and gold ornaments had been kept by the petitioners and an empty purse, DVR and cameras had also been handed over to them in a plastic bag for throwing the same in the "Chhappar". State counsel further pointed out that the recovery of plastic bag and two purses had been effected. However, the recovery of gold ornaments, cash and foreign currency amounting to 1200 canadian dollars was yet to be made for which the custodial interrogation of the petitioners was required. Still further, she submits that from the recording of the CCTV cameras installed at the gate, it is clear that the petitioners had been seen around the house, a day before the alleged incident.

I have considered the aforesaid submissions.

The reliance placed by the petitioners on the documents Annexures P-3 and P-4 does not improve their case. The certificate given by the Sarpanch, Annexure P-3 mentions that petitioner No.1 was

working with him in the field and after filling the trolley with potatoes, which took about 2 to 3 hours, and then he took the trolley to the store. The time at which they were working has not been mentioned in the writing, Annexure P-3. Reliance has been placed on an OPD Card of the sister of the petitioner to submit that he had taken her to Janta Hospital for checkup. However, a perusal of the OPD Card does not mention that his sister Charanjit Kaur was accompanied by some attendant.

The delay of nine hours in lodging the FIR is not of much consequence as it took the complainant some time to find out the details of the missing items. The State of Punjab was under curfew and lockdown from 22.03.2020 and the supplementary statement was made by the complainant on 22.05.2020 when there was relaxation in curfew. The two co-accused Gurwinder Singh @ Gindu and Gurpreet Singh @ Gopi who have been arrested have specifically named the petitioners. The petitioners have not alleged any enmity with them. Huge amount of cash and gold ornaments are yet to be recovered. No explanation has come forth from the petitioners as to why they were doing the recce of the house a day before the alleged incident. There is a possibility of the petitioners disposing of the cash and ornaments, in case, they are granted the concession of anticipatory bail. Case is at a very initial stage and any concession granted to the petitioner, is likely to hamper in the investigation. Accordingly, the petitioners are not entitled to concession of anticipatory bail.

The petition is dismissed.

It is clarified that any observation made hereinabove shall not be construed to be an expression on the merits of the case.

05.06.2020

pooja saini

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned : Yes/No
Whether Reportable : Yes/No