

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-24162 of 2020 (O&M)

Date of decision : 8.10.2020

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Sunny and others

.....Petitioners

vs.

State of Punjab

.....Respondent

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

Present: Ms. Juhi, Advocate
for the petitioners.

Mr. Gaurav Garg Dhuriwala, Senior DAG,
Punjab.

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H. S. Madaan, J. (Oral)

Case taken up through video conferencing.

This petition for grant of anticipatory bail has been filed by petitioners – Sunny aged about 29 years, son of Joginder Singh, Money aged about 28 years, son of Sukhwinder Singh, Joginder Singh aged about 55 years and Budhu @ Sukhvinder Singh, aged about 45 years both sons of Teja Singh, all of them residents of Mohalla Tarlokpura, District Kapurthala, being accused in FIR No. 192 dated 21.7.2017, for offences under Sections 379, 427, 434, 447, 511 IPC, registered at Police Station City Kapurthala, District Kapurthala.

Briefly stated, facts of the case are that, the criminal machinery in this case was set into motion by complainant Paramjit

Singh, who in the written complaint submitted by him to the Police, stated that his father was owner of 1 kanal 19 marlas of land situated in Defence Colony, Kapurthala. However, Sohan Lal and Teja Singh had forcibly taken possession of the same. Though civil suit instituted by the complainant party had been decided in their favour, but even then accused persons did not vacate the possession. The complainant had taken possession of that property with police help on 16.9.2016. Burjies were installed and barbed wire was fixed there. A video film was prepared with regard to delivery of possession. However, on 17.9.2016, at about 11/12 O'clock the accused persons, including the present petitioners, had demolished the burjies and removed the barbed wire, stealing the articles. FIR was registered.

Apprehending their arrest in this case, the petitioners had approached the Court of Sessions at Kapurthala, seeking pre-arrest bail. Their such application which was assigned to Additional Sessions Judge, Kapurthala, was however, rejected vide order dated 15.10.2019. As such they have knocked at the door of this Court, craving for grant of similar relief, notice of which was given to 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 co-accused of the petitioner, namely, Sohan Lal, has been granted pre-arrest bail by this Court; there is delay of more than 1 year in lodging of the FIR; the FIR is quite vague and there are no specific

allegations against the petitioners. He has further contended that he has got specific instructions to state that the petitioners are not in possession of property in question and they concede that the complainant is in possession of the said property and further the petitioners would not interfere in their such possession. These very contentions had been recorded in the last order dated 25.8.2020, when notice of motion had been issued to the State and they were granted interim bail with a direction to join the investigation.

According to learned counsel for the petitioners, the petitioners have since joined the investigation and no recovery is to be effected from them. Therefore, the instant petition be accepted.

Learned State counsel, on instructions from ASI Ashok Kumar, states that as the petitioners have joined the investigation and no recovery is to be effected from them, therefore, their custodial interrogation is not required.

Considering the facts and circumstances of the case, the statement made by learned counsel for the petitioners detailed above and the statement made by learned State counsel, I find that the petition deserves to be accepted.

Accordingly, the petition is allowed and the interim bail granted to the petitioners vide order dated 25.8.2020, is made absolute, subject to fulfillment of following conditions under Section 438(2) Cr.P.C.:-

- i) that the petitioners shall appear before the Investigating Officer as and when required and as and when summoned

by the I.O.;

ii) that the petitioners shall not give any threat or intimidation to the prosecution witnesses.

iii) that the petitioners shall not leave India without the prior permission of the Court.

iv) that the petitioners shall surrender their passport before the Investigating Officer and if they are not having passport then they shall file an affidavit in that regard.

In case the petitioners violate any term and condition on which the bail has been granted to them, the prosecution would be entitled to apply for cancellation of bail.

8.10.2020
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(H.S. Madaan)
Judge

Whether speaking / reasoned Yes / No

Whether reportable Yes / No