

CRM-M-36596-2020

Date of decision : 26.11.2020

ASHOK KUMAR

.....Petitioner

Vs.

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Gursharan Singh, Advocate for the petitioner.

Ms. Jaspreet Kaur, AAG, Punjab.

Mr. Rahul Rampal, Advocate for the complainant.

ALKA SARIN, J. (ORAL)

Heard through video conferencing.

This is a petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail to the petitioner in FIR No.172 dated 02.09.2020 under Sections 379 and 420 of the Indian Penal Code, 1860 registered at Police Station City Gurdaspur.

Learned counsel for the petitioner contends that the allegations against the petitioner in the FIR are that he had allegedly tampered with the weight stickers on the gold chains lying in the strong room of the shop and had stolen about 15 *tolas* of gold by placing a low weight chain in its place are imaginary in nature and without any evidence. He further contends that there is an unexplained delay in lodging the FIR against the petitioner.

Status report has been filed by the State wherein it has been stated that the complainant Tarsem Raj had filed an application before the Senior Superintendent of Police, Gurdaspur against the petitioner regarding theft and tampering of gold ornaments. An enquiry was got conducted by the Deputy Superintendent of Police, Headquarters, Gurdaspur and during the

enquiry a pen drive (CCTV footage) was produced by the complainant-Tarsem Raj. In the said CCTV footage the petitioner was seen tampering with the gold chains. Further, the statements of Mukesh Luthra owner of another gold shop was also got recorded wherein he stated that the petitioner came to his shop for sale of 43 gms of gold chain and as per the statement of another gold shop owner, the petitioner had gone there for purchase of 4½ grams gold chain. On the basis of the said enquiry conducted, the present FIR was lodged.

Learned counsel for the complainant, Mr. Rahul Rampal, Advocate, has stated that the CCTV footage as well as the statements recorded of the other goldsmiths clearly show that the petitioner had been tampering with the gold chains and also that he had not cooperated with the Investigating Agency earlier and in view thereof, he does not deserve the concession of anticipatory bail.

I have heard the counsel for the parties. The allegations in FIR prima facie are supported by the CCTV footage which has been seen by the investigation officer before lodging of the FIR. The petitioner's application for grant of anticipatory bail was rejected by the Court of Additional Sessions Judge, Gurdaspur vide order dated 03.11.2020. In the said order it has been recorded that the petitioner herein was granted interim bail by the Court of Additional Sessions Judge, Gurdaspur vide order dated 29.10.2020. In view of the interim bail granted, the petitioner joined investigation on 03.11.2020 but he did not cooperate with the Investigating Agency and, hence, he was held not entitled to the concession of anticipatory bail and his application for anticipatory bail was eventually dismissed on 03.11.2020.

In view of the above, I do not find this to be a fit case for grant of anticipatory bail. The petition is dismissed.

It is, however, made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.

November 26, 2020
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(ALKA SARIN)
JUDGE

Whether speaking/non-speaking: Yes/No
Whether reportable: Yes/No