

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

CRM-M-8244 of 2021.

Decided on:- March 16, 2021.

Sombir and another

.....Petitioners.

Versus

State of Haryana.

.....Respondent.

CORAM: *HON'BLE MR. JUSTICE HARI PAL VERMA.*

Present:- Mr. Sandeep Kumar Yadav, Advocate
for the petitioner.

Mr. Bhupender Singh, D.A.G., Haryana.

HARI PAL VERMA, J.(Oral)

Petitioners Sombir and Navratan have filed this petition under Section 438 Cr.P.C. for grant of anticipatory bail in FIR No.402 dated 09.11.2020 under Section 379-A IPC registered at Police Station Kanina, District Mahendergarh.

As per the FIR, complainant Avdhesh plies a taxi make Swift Dezire bearing registration No.HR-55AH-1847 under UBER agency. On 09.11.2020 at about 01.30 A.M., three youngsters persuaded the complainant to take his taxi to their village near Rewari for an amount of Rs.1700/-. However, when they reached near Rewari, one of the occupants of the car asked the complainant-driver to stop his vehicle so as to urinate. The complainant stopped his vehicle. Thereafter, one of the youngsters forcibly

sat on his seat and the complainant-driver was made to sit on the rear seat. They forcibly snatched Rs.4000-5000/- along with ATM card. They had also withdrawn an amount of Rs.2800/- by the ATM card of the complainant. They used the vehicle of the complainant to the surrounding area and at about 06.15 A.M., they got filled CNG in this vehicle. Later on, in the evening, they took the vehicle of complainant towards Kanina and forcibly dropped the complainant from his vehicle near the railway-crossing, Kanina and escaped along with the vehicle.

Learned counsel for the petitioners has argued that no offence has been committed by the petitioners. The complainant was sitting in the car with the person, who had taken the car throughout the night. Even the fuel was filled in the vehicle. Had there been kidnapping, the complainant would have shouted at the petrol pump. Moreover, the vehicle has already been recovered and the custodial interrogation of the petitioners is not required in the case.

Learned State counsel has argued that the allegations levelled against the petitioners are serious. The identity of the petitioners was established from the video footage produced by the Assistant Public Prosecutor in the Court of learned Additional Sessions Judge, Narnaul and, therefore, the petitioners are not entitled for the relief of anticipatory bail.

I have heard learned counsel for the parties.

The identity of the petitioners was established from the video footage produced by the Assistant Public Prosecutor in the Court. Thus, on the basis of this identification, learned Additional Sessions Judge, Narnaul

has dismissed the application of anticipatory bail of the petitioners vide order dated 27.01.2021.

Moreover, Hon'ble Supreme Court in ***P. Chidambaram Versus Directorate of Enforcement (SC) 2019 (4) RCR (Criminal) 875*** has observed that the power under Section 438 Cr.P.C. is an extraordinary power and the same has to be exercised sparingly. The privilege of the pre-arrest bail should be granted only in exceptional cases. The anticipatory bail is not to be granted as a matter of rule, rather, it has to be granted only when the Court is convinced that the exceptional circumstances exist to resort to such extraordinary remedy. The relevant paragraph No.67 of the said judgment read as under:

“67. Ordinarily, arrest is a part of procedure of the investigation to secure not only the presence of the accused but several other purpose. Power under Section 438 Cr.P.C 1973 is an extraordinary power and the same has to be exercised sparingly. The privilege of the pre-arrest bail should be granted only in exceptional cases. The judicial discretion conferred upon the court has to be properly exercised after application of mind as to the nature and gravity of the accusation; possibility of applicant fleeing justice and other factors to decide whether it is a fit case for grant of anticipatory bail. Grant of anticipatory bail to some extent interferes in the sphere of investigation of an offence and hence, the court must be circumspect while exercising such power for grant of anticipatory bail. Anticipatory bail is not to be granted as a matter of rule and it has to be granted only when the Court is convinced that the exceptional circumstances exist to resort to that extraordinary remedy.”

Considering the nature of offence, where not only the car was snatched from the innocent driver, but he was robbed with his money and ATM card as well, this Court does not find any reason to grant anticipatory bail to the petitioners.

The present petition is, accordingly, dismissed.

March 16, 2021
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned:	Yes
Whether Reportable:	No