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

CRM-M-29197-2021

Date of Decision:23.08.2021

Baljinder Kaur and another

...Petitioners

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: - Mr.Tarun Sharma, Advocate,
for the petitioners.

Mr.Ramdeep Partap, DAG, Punjab.

AMOL RATTAN SINGH, J. (ORAL)

Case heard by way of video conferencing.

On 27.07.2021, the following order had been passed: -

“Case heard by way of video conferencing.

By this petition, filed under the provisions of Section 438 of the Cr.P.C, the petitioner seeks the concession of anticipatory bail, upon FIR no.0062, dated 20.06.2021, having been registered at Police Station Kulgarhi, District Ferozepur, alleging therein the commission of offences punishable under Sections 436, 427, 34 and 120B of the IPC.

Learned counsel for the petitioners submits that the petitioners had been wholly falsely roped in only to harass the entire family, on the allegation that the house of the complainant was burnt by the petitioners along with their brother, Noor Masih, the dispute arising from the fact that the daughter of petitioner no.1 (sister of petitioner no.2) married the brother of the complainant, with the couple

having sought protection of their lives and liberty by filing a petition before this court, which was granted to them.

He further submits that the FIR has been registered on June 20, 2021, with the occurrence alleged to have taken place on 10.06.2021 and therefore, a false FIR having been registered cannot be ruled out.

He next submits that petitioner no.2 is only a 22 year old young woman and is unlikely to be involved in such kind of an act in any case.

Learned counsel for the petitioners next refers to Section 439A of the Cr.P.C. (inserted vide Act no.22 of 1983 for the State of Punjab), the relevant part of which reads as follows:-

“439-A. Notwithstanding anything contained in this Code, no person-

(a) who, being accused or suspected of committing an offence under any of the following sections, namely Sections

xxx xxx xxx436.... is arrested

or appears or is brought before a court; or

xxx xxx xxx

(b) who, having any reason to believe that he may be arrested on an accusation of committing an offence as specified in clause (a), has applied to the High Court or the Court of Session for a direction for his release on bail in the event of his arrest, shall be released on bail or, as the case may be, directed to be released on bail, except on one or more of the following grounds, namely;-

(i) xxx xxx xxx

(ii) that such person is under the age of sixteen years or a woman or a sick or an infirm person;

(iii) that the Court including the High Court or the Court of Session for reasons to be recorded in writing, is satisfied that there are exceptional and

sufficient grounds to release or direct the release of the accused on bail.”

He therefore submits that the petitioners being ladies, there would be no exceptional circumstances by which they should be refused the concession of bail on apprehension of arrest.

Without making any comment on the merits of the case, notice of motion is issued, with Mr. Sidakmeet Singh Sandhu, learned AAG, Punjab, accepting notice on behalf of the respondent State, at the asking of the court, with Mr. Amandeep Saini, Advocate, appearing for the complainant.

Mr. Sandhu submits that as per his instructions the late registration of the FIR was on account of the fact that the complainant and his family were aware away from their house after the young couple had run away, apprehending danger at the hands of the petitioners and their family; and it was only on their return that the FIR was registered and as per investigation carried out so far, petitioner no.1 was the person who had actually purchased the petrol to set the house on fire, as per the statement recorded of the ‘shopkeeper’ from whom the petrol was purchased.

He further submits that as per the statements recorded of eye witnesses, both, petitioners no.1 and 2, were involved in setting the house on fire.

Learned counsel for the complainant while reiterating the above, further submits that in fact as regards the late registration of the FIR, the complainants were of course scared of the petitioners and therefore they did not return home till after the order passed by this court giving protection to the young couple on 16.06.2021; and thereafter though they had actually lodged a complaint with the police on 18.06.2021, the FIR was eventually registered only on June 20, 2021 after the intervention of the SSP.

Having considered the matter, in the opinion of this court as regards petitioner no.2, the possibility of her

having been roped in cannot be ruled out by this court, (though that is only an observation made wholly in the context of this petition filed under the provisions of Section 438 of the Cr.P.C. with obviously evidence to be gathered by the investigating agency and presented to the competent court even with regard thereto); and consequently she may be entitled to interim protection at this stage, with her directed to join investigation within one week and upon her doing so, in case she is sought to be arrested, she would be admitted to interim bail, on her furnishing adequate bail and surety bonds to the satisfaction of the arresting officer/Illaq Magistrate. She shall abide by the conditions stipulated in Section 438(2) of the Cr.P.C.

If the arresting officer does not join the petitioner in investigation, she would appear before the learned Illaq Magistrate immediately, who would then summon the arresting officer and direct him to join her in investigation.

As regards petitioner no.1, again without making any comment on the merits of the case whatsoever, but looking at the fact that the stand taken by the investigating agency, as has been contended by the learned State counsel (on instructions from ASI Baljinder Singh), that the investigating agency recorded the statement of the shopkeeper, at this stage I am not inclined to admit her to interim bail and consequently as regards her role, it would be considered on the next date of hearing upon a gazetted officer filing an affidavit in reply to the petition.

Consequently, at this stage, there is no interim order operating in favour of petitioner no.1.

Adjourned to 23.08.2021. ”

Today, learned State counsel submits that petitioner No.2, who was ordered to be admitted to bail after joining investigation (if she was sought to be arrested), has not joined investigation.

That being so, I see no ground to continue with this petition,
which is consequently dismissed.

23.08.2021

Vivek

(AMOL RATTAN SINGH)
JUDGE

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