

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of Decision: 15.09.2021
CRM-M-30881-2021 (O&M)

1. Sucha Singh and another

... Petitioners

Versus

State of Haryana and another

... Respondents

2. CRM-M- 32701-2021 (O&M)

Balram Singh

... Petitioner

Versus

State of Haryana and another

... Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present Mr. Aditya Sanghi, Advocate
for the petitioners in both petitions.

Ms. Deepshikha Chauhan, AAG, Haryana.

JAISHREE THAKUR, J.(Oral)

CRM-24897-2021 in CRM-M-30881-2021

Application is allowed.

Affidavits i.e. Annexure P-3 to P-5 are taken on record .

Main case

1. This common order of mine shall dispose of both the above mentioned petitions as they are arising out of the same FIR.
2. These petitions have been filed under Section 438 of the Code of Criminal Procedure seeking anticipatory bail to the petitioners in FIR No. 208 dated 17.06.2021 registered under Sections 323, 498-A, 406, 506, 34 of Indian Penal Code registered at Police Station Rania, District Sirsa, Haryana.
3. Learned counsel for the petitioner would contend that the FIR came to be registered at the behest of the complainant- Sunita alleging maltreatment at the hands of petitioners, father-in-law and mother-in-law and husband-Balram Singh on account of demand of dowry. Consequent to the registration of the FIR, the petitioners herein approached the Sessions Court for grant of anticipatory on 23.06.2021 which bail petition came to be dismissed by an order dated 12.07.2021. Impugning the said order, learned counsel for the petitioners would contend that in fact the petitioners herein had been allowed interim bail by the said Court on 28.06.2021. They were directed to join investigation. However, when the petitioners went to join the investigation, the Investigating Officer did not allow them to join the investigation.
4. Mr. Aditya Sanghi, learned counsel for the petitioners, while impugning the said order raised this argument on the basis of the affidavit dated 05.08.2021 furnished by the petitioners themselves. These matters were taken up on 04.08.2021 and 13.08.2021 when the submission of the learned counsel for the petitioners was taken into account to the effect that

pursuant to the order passed by the Additional Sessions Judge, the petitioners went to join investigation but were not allowed to do the same.

5. Notice of motion was issued and Ms. Deepshikha Chauhan, AAG, Haryana, who was present in Court accepted notice. She was directed to file an affidavit regarding the date when the petitioners went to join investigation and who was the Investigating Officer at that time, who did not allow the petitioners to join investigation in terms of the said order. The arrest of the petitioners was stayed to enable the affidavits to be filed. An affidavit of Jagat Singh, HPS, Deputy Superintendent of Police, Ellenabad, Sirsa has been filed in which it is categorically submitted that the averments made by the petitioners through their affidavits are patently false. It is submitted that the Additional Sessions Judge, Sirsa vide order dated 28.06.2021 had directed the petitioners to join investigation, however, the petitioners failed to do so. As such by an order dated 08.07.2021, the learned counsel for the petitioners were directed to be present for 09.07.2021. On the said date, the following order was passed in the presence of the counsel for the petitioners:-

“Police report filed whereby it has been brought on record that accused applicants have not joined the investigation as yet. Learned proxy counsel has contended that accused applicants could not join investigation due to some problem occurred in their family and he has requested to give an adjournment on this behalf and assured that accused- applicants will join the investigation on the next date of hearing. Heard. Request not opposed. Now case is adjourned to 12.07.2021 for awaiting status report. Till then arrest of the accused -applicants are stayed.”

6. The bail application was ultimately dismissed on 12.07.2021 as the Court noted that the petitioners had not joined investigation.

7. I have heard learned counsel for the parties and have also perused the pleadings of petitioners as well as affidavit and *zimni* orders that have been appended with the reply of the State. In Annexure P/4, which is an affidavit of one of the petitioners namely Jangiro Bai, it is stated that the petitioners went to meet the Investigating Officer at Police Station Ellenabad, Sirsa on 07.07.2021, who further directed them to go to the office of the Deputy Superintendent of Police. The Deputy Superintendent of Police asked the petitioners to write down the name and address on a piece of paper and they were asked to go. Thereafter the petitioners came back. Two similar affidavits pertaining to the other petitioners are available on the record. A perusal of the reply filed along with the order of the Additional Sessions Judge dated 09.07.2021 would clearly reflect that the police report filed before the Court reflected that the petitioners had not joined investigation. Proxy counsel appearing on behalf of the petitioners herein had stated that they could not join investigation due to some problem in their family and a request was made for an adjournment with an assurance that the accused would join investigation on the next date of hearing. The request for joining was not opposed and the case was then adjourned for 12.07.2021 with a direction not to arrest the accused. On 12.07.2021 the State submitted that the orders of the Court had not been complied with despite opportunity having been given to do so. As the petitioners had not joined the investigation, the Additional Sessions Judge, Sirsa dismissed the bail application.

8. This Court finds no reason to interfere with the order so passed, primarily because false averments have been made in the Court itself by way of affidavits. The record of the trial Court would reflect that two opportunities had been given to the petitioners to join investigation and proxy counsel for the petitioners himself had submitted that the petitioners could not join investigation on account of a family problem. One more opportunity was allowed to them thereafter, whereas in the affidavits filed in the High Court, there is a specific statement given that the I.O. did not allow them to join investigation on 07.07.2021. There is no reference in the said affidavits to the statement given in Court that one more opportunity be given. Consequently once the petitioners have not approached this Court with clean hands, this Court does not deem it appropriate to interfere in the impugned order or allow them any concession whatsoever.

9. Both the petitions are accordingly dismissed.

15.09.2021

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(JAISHREE THAKUR)

JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No