

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

CRM-M No.38270 of 2021

Date of Decision: November 09, 2021

Rama Sharma and others

...Petitioners

Versus

State of Punjab

...Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Mr. Ashish Aggarwal, Advocate for the petitioners.

Mr. Rana Harjasdeep Singh, DAG, Punjab.

Mr. Sharad Mehra, Advocate for the complainant.

Amol Rattan Singh, J. (Oral)

By this petition, filed under the provisions of Section 438 of the Cr.P.C., the petitioners seek the concession of 'anticipatory bail', upon FIR No.90, dated 30.08.2021, having been registered at Police Station 'D' Division, District Amritsar City, alleging therein the commission of offences punishable under Sections 323, 452, 380, 506 and 34 of the IPC.

Pursuant to the order of this court, dated 15.09.2021, learned State counsel, on instructions, from S.I. Rajwinder Singh, submits that the petitioners have joined investigation and presently their custodial interrogation is not required .

Though learned counsel for the complainant opposes the petitioner being admitted to bail absolutely, however, in fact this petition has been rendered infructuous on the statement of the Investigating Officer

as conveyed to the learned State counsel; and as per the judgment of the Supreme Court in **M.C. Abraham v. State of Maharashtra**, (2003) 2 SCC 649, once an investigating agency itself does not require the custodial interrogation of an accused, a Court would not ordinarily direct that he/she be arrested.

It is however to be noticed that an affidavit dated 02.11.2021 has been filed on behalf of respondent-State by the ACP, Central, Amritsar City, stating to the effect that since the petitioners are alleged to have stolen Rs.20,000/- and a gold chain from the neck of the complainant, there is no ground to grant the relief of 'anticipatory bail'.

In that context, it is to be observed by this Court that vide the order passed on 15.09.2021, it had been noticed that the petitioners and the complainant were immediate relatives, staying on different floors of the same building, with this court having expressed its skepticism (only for the purpose of this petition) on that allegation.

Therefore, for the reasons already given in that order, without making any comment on the merits of the case, which would naturally would be subject matter of evidence gathered and led before the trial Court (if it comes to that stage), this petition is allowed, with the aforesaid order dated 15.09.2021 passed by this Court, made absolute on the same terms and conditions.

November 09, 2021

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(AMOL RATTAN SINGH)

JUDGE

Whether reasoned/speaking: Yes

Whether reportable: No