

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

Sr. No.204

CRM-M-39483-2021

Date of Decision: 02.12.2021

GURVINDER SINGH AND ANR

... Petitioners

VERSUS

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Aayush Gupta, Advocate,
for the petitioners.

Mr. Kirat Singh Sidhu, DAG, Punjab.

Harsimran Singh Sethi, J.(Oral)

The petitioners are seeking anticipatory bail in FIR No.216 dated 03.09.2021 under Section 295 IPC registered at Police Station Division No.3, District Police Commissionerate, Ludhiana.

Learned counsel for the petitioners contends that the petitioners have joined investigation in terms of order passed by this Court dated 22.09.2021. Order dated 22.09.2021 is as under:-

“ Present petition has been filed under Section 438 Cr.P.C for the grant of anticipatory bail in respect of FIR No. 216, dated 03.09.2021, registered Section 295 IPC at Police Station Division No. 3, District Police Commissionerate, Ludhiana.

Learned counsel for the petitioners argues that the present FIR is only a counter blast of the proceedings which the petitioners were undertaking for removing the encroachment, which was there at the site and even the petitioners, in order to get the encroachment removed, had to approach this Court by filing a contempt petition as well. Learned counsel for the petitioners submits that in the present case, the allegation is that certain parts of Gurudwara Sahib, which is in existence since 1947, have been

demolished by the petitioners and the petitioners were in process of selling a land, which actually did not belong to them. Learned counsel further submits that it has already come on record that the site in question is in the ownership of Punjab Wakf Board and at the time of the allotment of the site to the petitioners, not only the shops but residential accommodations were also in existence, which fact is clear from the allotment order. Learned counsel for the petitioners argues that nothing has been placed on record with regard to the allegations that the petitioners were in process of selling the property in their possession. Learned counsel further argues that as nothing is to be recovered from the petitioners and the petitioners undertake to join the investigation and cooperate, they may kindly be granted the benefit of anticipatory bail.

Notice of motion.

Mr. Sandeep Kumar, learned Deputy Advocate General, Punjab, who is present in Court today, accepts notice on behalf of the respondent-State. Learned State counsel on instructions from SI Mohan Singh submits that the allegation with regard to demolition of certain parts of Gurudwara Sahib, is to be investigated for which the custodial interrogation of the petitioners is necessary. Learned State counsel concedes that nothing is to be recovered from the petitioners in respect of the allegations alleged against the petitioners in the FIR.

I have heard learned counsel for the parties and have gone through the record with their able assistance. The prayer of the petitioners in the present case is for grant of anticipatory bail. This Court is not deciding about the genuineness of the allegations alleged in the FIR as of now so as to conclude whether the petitioners are guilty of the allegations or not. The only question to be decided in the present petition is whether the purpose of investigation will be achieved in case, the petitioners are directed to join the investigation or not.

Keeping in view the facts and circumstances noted hereinbefore, as the allegations alleged in the FIR are yet to be proved during the trial and nothing is to be recovered from them, the purpose of investigation will be achieved in case, petitioners are directed to join investigation and cooperate.

Petitioners are directed to join the investigation forthwith.

In the event of their arrest, they shall be released on interim

bail to the satisfaction of the Arresting Officer/Investigating Officer on their furnishing bail bonds/surety bonds to his/her satisfaction subject to the following conditions:

i) That they shall make himself available for interrogation by the police officer as and when required.

(ii) That they shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing the said facts to the Court or to any police officer.

(iii) That they shall not leave India without prior permission of the Court.

(iv) That they shall abide by all the conditions as enshrined under Section 438 (2) Cr.P.C.

Adjourned to 02.12.2021.

It is, however, made clear that after the petitioners join the investigation, in case any incriminating material comes against the petitioners, the respondent-State will be at liberty to file appropriate application seeking the custody of the petitioners in case, the same is needed."

Learned State counsel on instructions from SI Mohan Singh, states that in terms of the order of this Court reproduced before, the petitioners have joined the investigation and no further interrogation is required at this stage.

Learned counsel for the petitioners undertakes that petitioners will join investigation and also cooperate with the investigating agency in case they are required for the same in future as well.

In view of the above, the order dated 22.09.2021 granting interim bail to the petitioners is made absolute.

However, the petitioners shall abide by the conditions stipulated under Section 438(2) Cr.P.C. They shall also join investigation as and when called upon to do so.

In case at any given point of time hereinafter, it is felt by the

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investigating agency that petitioners are required for the investigation but are not cooperating, they will be at liberty to approach this Court for passing appropriate order.

The petition stands disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

02.12.2021

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Whether speaking/reasoned : Yes

Whether reportable : No