

CRM-M-36694-2020 (O&M)

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

**CRM-M-36694-2020 (O&M).
Decided on: January 28, 2021.**

Ms.Lisha Adlakha and others

.. Petitioners

VERSUS

State of Haryana

.. Respondent

*** * ***

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

*** * ***

PRESENT

**Mr.Bhal Singh Malik, Advocate,
for the petitioners.**

Mr.Naveen Sheoran, DAG, Haryana.

**Mr.Ganesh Chand Sharma, Advocate,
for the complainant.**

JASGURPREET SINGH PURI, J. (ORAL)

CRM-28444-2020

At the outset, learned counsel for the applicant-
complainant prays for withdrawal of the present application.

The prayer is accepted.

The present application is dismissed as withdrawn.

Main Case

The present petition has been filed under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail in FIR No.576 dated 26.10.2020, under Sections 452, 323 and 506/34 IPC, registered at Police Station Surajkund, District Faridabad.

As per the FIR, which was lodged at the instance of complainant Gita Singh wife of Satinder Pal Singh, it was stated by her that on 25.10.2020, around 10:00 A.M., when she was alone in her house, during that period, the petitioners forcibly entered into her house and started beating her and also snatched chain and mangal sutra from her neck and she fell down and then they took Rs.1 lac from the almirah and threatened that if she goes to the police, then they will kill her.

Learned counsel for the petitioners has submitted that in the present case the petitioners have been falsely implicated and in fact the real facts are that there was a pre-existing dispute between the petitioners and the complainant for which the petitioners had gone to the house of the complainant for settlement of the dispute but there a quarrel took place. Learned counsel for the petitioners has referred to the report of the police wherein it has been stated that they had verified and checked the CCTV camera footage and on investigation of the same, it was found that there was a quarrel but snatching of *mangal sutra* and chain and taking of Rs.1 lac from almirah was not proved. Learned counsel for petitioners has further submitted that even otherwise also the MLR was from a private hospital and in fact there were no injuries at all and even if the MLR is taken to be true,

CRM-M-36694-2020 (O&M)

the injuries are simple in nature. He has submitted that despite the fact that the petitioners had not snatched anything there is real apprehension that the police would arrest the petitioners and therefore, the present anticipatory bail application was filed.

Mr.Naveen Sheoran, learned DAG, Haryana, while referring to the reply filed by the Assistant Commissioner of Police, Surajkand, Faridabad on behalf of State of Haryana, has submitted that on 25.10.2020, a telephonic message was received in police station regarding a quarrel which took place in Leisure Valley and the Head Constable along with a Constable had reached at the spot. At the place of incident, the police team met the complaint who told that petitioners had trounced her. She specifically told the police team that she will lodge her complaint formally only after being medico-legally examined at her own. The complainant reached in police station in the evening of 25.10.2020 along with her husband and gave a written complaint against petitioners upon which the present FIR was registered under Sections 323, 452 and 506/34 IPC. After the registration of the FIR, the investigation was carried out by Head Constable Satish Kumar and the complainant also produced her medico-legal report and footage of CCTV camera installed at her house in a Pen Drive. During the investigation, it was found that the allegations of snatching of mangal sutra and gold chain from complainant and taking of Rs.1 lac out of almirah were not true. It is further stated in the affidavit that when the police team including Head Constable along with a Constable reached at the house of the complainant on 25.10.2020, they were informed

CRM-M-36694-2020 (O&M)

by the complainant that the accused persons forcefully entered in the house and started beating the complainant mercilessly. Upon this, the complainant was specifically asked to lodge formal complaint of incident. The complainant denied to lodge the complaint when the police party reached at the spot. The complainant told the police team that she will file complaint later on. It is further stated in the affidavit that no snatching of gold chain or no loot of money from almirah was reported by complainant at that time. The charges of snatching mangal sutra and cash were reported only when the complainant reached in police station in the evening of 25.10.2020 with her husband. It is further stated in the affidavit that when the complainant reached in the evening of 25.10.2020 in the police station, she added charges of snatching of sangal sutra and cash of Rs.1 lac. The allegations were found to be doubtful by the investigating officer and this fact was mentioned in DDR No.17 dated 25.10.2020 which was written at 5 P.M. on 25.10.2020. The Investigating Officer then again visited the spot twice on 26.10.2020 and the Investigating Officer inquired again thoroughly from security persons of society and from all the neighbours. The allegations of snatching were not found to be true. It is further stated in the affidavit that after close and thorough enquiry by the police team and inspecting the CCTV camera footage, it was found that the allegation of trouncing the complainant by petitioners was true as was seen in footage that a quarrel had actually taken place at the house of the complainant but there was no proof of snatching of golden ornaments and money as alleged. Even on the directions of this Court, the complainant provided CCTV footage of the

CRM-M-36694-2020 (O&M)

incident and the said CCTV footage was thoroughly checked but throughout the footage there was no evidence which corroborates the charges of complainant regarding snatching of mangal sutra and cash. It is further stated in para 7 of the reply on merits that as per the directions of this Court dated 9.11.2020, the petitioners have joined investigation on 19.11.2020.

Learned State counsel, on the basis of affidavit and on instructions from HC Satish Kumar, has submitted that in pursuance of the directions of this Court, the petitioners have joined investigation and they are fully cooperating with the investigation process and are no longer required for custodial investigation.

Learned counsel for the complainant has caused appearance on behalf of the complainant and has submitted that it is a case where snatching took place and cash along with gold chain and mangal sutra is required to be recovered from the petitioners. He has further submitted that the police is conniving with the accused persons and that on 25.10.2020, the investigating officer never visited the spot. He has, therefore, argued that the allegation of theft which the complainant has levelled has not been incorporated in the FIR and the police violated the guidelines laid down in **Lalita Kumari Vs Govt. of U.P., (2014) 2 SCC 1**, by the Hon'ble Supreme Court in which it was held that in case of cognizable offence preliminary inquiry is not required. He has further submitted that the petitioners in the present case do not have any apprehension of arrest and therefore, the present petition be dismissed.

I have heard the learned counsel for the parties.

CRM-M-36694-2020 (O&M)

In the present case the petitioners were granted interim protection by this Court vide order dated 9.11.2020 and were directed to appear before the arresting/investigating officer and to join investigation thereafter also as and when called upon to do so. The petitioners were further directed to abide by all the conditions as provided under Section 438 (2) Cr.P.C. and fully cooperate with the Investigating Agency.

Today, learned State counsel has categorically submitted that the petitioners have joined investigation in pursuance of the orders passed by this Court and it is categorical stand of the State that the petitioners are no longer required for custodial investigation. The argument raised by the learned counsel for the complainant that cash of Rs.1 lac, mangal sutra and gold chain are yet to be recovered would not carry any weight in view of the fact that the police has taken up stand in the affidavit that during investigation it was found that the allegations of taking money from almirah and snatching of mangal sutra were not found to be correct. The argument raised by the learned counsel for the complainant that the police was not required to undergo preliminary inquiry before lodging of the FIR shall also not carry weight in view of the fact that the police have given a detailed description of the sequence of events on 25.10.2020 and 26.10.2020, as aforesaid. The police was informed on 25.10.2020 and the FIR has been lodged on 26.10.2020 not only under Sections 323 and 506 IPC but also under Section 452 IPC which is a cognizable offence. The mere fact that police had inspected the spot even before lodging of the FIR, would not mean that it amounts to preliminary inquiry. The argument raised

CRM-M-36694-2020 (O&M)

by the learned counsel for the complainant that the police ought to have registered the FIR for theft would also not carry weight as the matter is still at the investigation stage. The law with regard to the grant of anticipatory bail is no longer res integra. While considering the application for grant of anticipatory bail, the Court has to consider the freedom of individual on one hand and various other factors on the other hand which are to be considered i.e. possibility of influencing of any witness, tampering of evidence, possibility of fleeing from justice, magnitude of the subject matter and factors of like nature. In the present case, it is not the case of the State that in case the petitioners are granted anticipatory bail, they may tamper with the evidence or influence any witness or may flee from justice. Rather, the stand taken by the State is that the petitioners have joined investigation and have fully cooperated with the investigation process and are no longer required for custodial investigation.

Therefore, considering the totality of the circumstances of the present case, the present petition is allowed and interim order dated 9.11.2020, is hereby made absolute.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant only for the purpose of decision of present petition.

January 28, 2021.
raj arora

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking / reasoned
Whether reportable

Yes / No
Yes / No