

CRM-M-37556-2020 (O&M)

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

**CRM-M-37556-2020 (O&M).
Decided on: January 11, 2021.**

Rinku Kumari and another

.. Petitioners

VERSUS

State of Haryana

.. Respondent

*** * ***

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

*** * ***

**PRESENT Mr.Rajesh Dhankhar, Advocate,
for the petitioner.**

Mr.Munish Sharma, AAG, Haryana.

**Mr.Abhimanyu Singh, Advocate,
for the complainant.**

JASGURPREET SINGH PURI, J. (ORAL)

The present petition has been filed under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail in FIR No.223 dated 22.10.2020, under Sections 323, 379, 452 and 506 IPC, registered at Police Station Behal, District Bhiwani.

As per the FIR, a complaint was lodged by one Hari Singh so of Sh.Mohar Singh, resident of village Paju (Behal), Bhiwani against his son and daughter-in-law who are the petitioners in the present case.

CRM-M-37556-2020 (O&M)

As per the allegations contained in the FIR, the aforesaid complainant had stated that his fields are situated at a distance of 1½ kms. away from the fields of his son (petitioner No.2) and that he had kept about 270 quintals of mustard in his room and the petitioners forcibly occupied the room in which mustard was placed. Furthermore, on 14.10.2020, when he went to his house situated on tubhewell village, then both the petitioners forcibly entered in the house and forcibly occupied his tubewell and on 15.10.2020 they stole sprinklers set and hid the same in another field and thereafter they abused and threatened to kill him. It is further stated in the complaint that mustard was kept in the room situated on tubewell and the petitioners have put their lock on his lock.

The learned counsel for the petitioner has submitted that it is a case where the petitioners have been falsely implicated by the complainant who is the father of petitioner No.2 and that it was a pure and simple family dispute because of which the present false FIR has been lodged against the petitioners. The learned counsel for the petitioners has further submitted that the complainant who is father of petitioner No.2 has also filed a civil suit for permanent injunction (prohibitory) restraining the defendants (petitioners) from interfering into the peaceful possession of the land comprising in various khasra numbers allegedly owned by him with a prayer for interim protection restraining the defendants from interfering in the peaceful possession of the suit property. He has submitted that vide order dated 11.11. 2019, the learned Additional Civil Judge (SD), Loharu, had passed an interim order which is still in operation. In this order, it has

CRM-M-37556-2020 (O&M)

been directed that both the parties shall maintain status quo qua the construction/possession and alienation pertaining to the suit property which is mentioned in the headnote of the plaint. He submitted that once status quo order has been passed by the learned Additional Civil Judge (SD), Loharu, then neither the plaintiff nor the defendants nor the police can interfere in the possession of the land or any thing constructed on the land. He has submitted that the present FIR is totally an abuse of process of law and the police cannot go further and unlock the room where the alleged mustard is stored and therefore, there is no need for any custodial investigation of the petitioners. He has further submitted that in pursuance of the orders passed by this Court while issuing notice of motion on 12.11.2020, the petitioners have fully cooperated with the investigation process. He has further submitted that the complainant and the police are conniving with each other and that in the present case where no recovery can be effected in view of status quo order passed by the learned Additional Civil Judge (SD), Loharu, the petitioners be granted anticipatory bail.

On the other hand, learned State counsel, on instructions from HC Vijender Singh, has submitted that it is a case where although the petitioners have joined the investigation in pursuance of the orders passed by this Court but they have not cooperated with the investigation process and that recovery of mustard is yet to be effected.

Learned counsel for the complainant has also taken up the same stand as that taken by the learned State counsel and has further submitted that it is a case where recovery is yet to be effected and therefore,

CRM-M-37556-2020 (O&M)

the present petition is liable to be dismissed.

I have heard the learned counsel for the parties.

It is a case where an FIR was lodged by alleging that the petitioners had locked the room which is constructed on the land of the complainant in which about 270 quintals of mustard was kept and the allegation is that the petitioners have forcibly done so and other allegations are that some beatings had been given to the complainant. Further, so far as beating aspect is concerned, neither any medical record has been shown to this Court nor any other argument has been advanced to that effect. It appears that the matter involves a family dispute between the petitioners and father of petitioner No.2 regarding which status quo order has been passed by the learned Additional Civil Judge (SD), Loharu, with regard to the possession as well. The only controversy which remains in the present case is whether the police can effect recovery of mustard or not.

In view of the status quo order passed by the learned Additional Civil Judge (SD), Loharu, it cannot be said that the police can effect any recovery because the status quo order regarding possession has been passed which is still in operation. Therefore, this Court is of the opinion that only for the purpose of effecting recovery, the custody of the petitioners will not be required. It is settled law that life and liberty of an individual is of paramount consideration. The present petition is for the grant of anticipatory bail. The only stand taken by the learned State counsel as well as learned counsel for the complainant is that recovery is yet to be effected. However, in the facts and circumstances of the present case, the

CRM-M-37556-2020 (O&M)

police may not be empowered to make any recovery and therefore, the life and liberty of the petitioners cannot be jeopardised just by lodging the FIR. It is not the case of the State or the complainant that in case anticipatory bail is granted to the petitioners, the petitioners may tamper with the evidence or flee from justice. Considering the totality of the circumstances of the present case, I deem it fit and proper to allow the present petition. Consequently, the present petition is allowed. Interim order dated 12.11.2020, is hereby made absolute.

January 11, 2021.
raj arora

(JASGURPREET SINGH PURI)
JUDGE

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