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

CRM-M-43193-2021

Date of Decision: 02.12.2021

Guddi

.....Petitioner

Vs.

State of Haryana

.....Respondent

203-1

CRWP No. 159 of 2020

Rajesh Kumar and another

...Petitioners

vs

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Ms. Sukhpreet Kaur, Advocate,
for the petitioners.

Mr. Munish Sharma, A.A.G., Haryana.

AMOL RATTAN SINGH, J. (ORAL)

CRM-M-43193-2021

By this petition, the petitioner seeks the concession of 'pre-arrest bail', upon FIR No. 87 having been registered at Police Station Saha, District Ambala, on 10.05.2021, alleging therein the commission of offences punishable under the provisions of Sections 380/454/411 of the IPC.

Pursuant to the order dated 29.10.2021, an affidavit of the Superintendent of Police, 27.11.2021, has been filed, which is ordered to be taken on record.

As per the said affidavit, in fact a pair of gold ear rings was got recovered from the petitioner of her own volition, in the presence of one Abhisek Bajwa and her own counsel.

As regards the affidavit of the DSP earlier filed, dated 26.10.2021, the Superintendent of Police has stated that it was inadvertently stated in that affidavit that a gold finger ring had been recovered from the petitioner whereas that ring was recovered from her co-accused Vishal @ Hathi.

It has next been stated that the gold ornaments being of high value, there would be no occasion for the investigating officer to plant the same on the petitioner and the allegations made in the petition against the police are “not trustworthy”.

However, it has not been stated anywhere as to why her custodial interrogation would be required, with the aforesaid ornaments having been recovered.

Learned State counsel in fact submits that as per his instructions from the investigating officer, Head Constable Sunil Kumar, the petitioners' custodial interrogation is not required.

That being so, with no comment being made on the merits of the case, this petition has been rendered infructuous and is disposed of as such.

However, if the petitioners' custodial interrogation is required at any stage hereinafter, in the context of the FIR in question, he would be given 10 days notice before arrest, duly shown to be served upon him.

Naturally, if the complainant is aggrieved in any manner, of lack of proper investigation, he/she would be always at liberty to avail of his

remedy as per law.

CRWP No. 159-2020

This petition has been filed under Article 226/227 of the Constitution of India for issuance of a writ in the nature of '*mandamus*' directing respondent no. 2 to protect the life and liberty of the petitioners at the hands of respondents no. 3 and 4, who are alleged to be causing unnecessary harassment to the petitioners by taking them forcibly to the police station and extending threats to implicate them in false criminal cases (as alleged).

In this case too, the Superintendent of Police, Ambala, has filed an affidavit dated 27.11.2021, which is ordered to be taken on record.

As per the said affidavit, upon going into the matter, the antecedents of the family of the petitioners were gone into and it was found that petitioner no. 1, Rajesh Kumar, as also his wife, i.e. petitioner no. 2, and their sons were found to be involved in a number of cases since the year 2014 and thus they are 'habitual offenders' who 'pose a threat to the general public'.

09 criminal cases against petitioners no.1 and 2 and 07 against their sons, are stated to have been registered (at various points of time).

Some details of the investigation into FIR no. 286, dated 12.10.2021, registered at Police Station Parao, District Ambala, alleging therein the commission of offences punishable under the provisions of Sections 21/27/29 of the NDPS Act, 1985, have also been given by the SP, with the recovery stated to have been made from the son of the petitioners also referred to (of gold ornaments).

A supplementary '*challan*' under the provisions of Section 173 Cr.P.C. is also stated to have been submitted before the competent court in that context.

Eventually, it is stated that however the two petitioners in the present case are not accused in the FIR in question and therefore have never been called by the investigating officer.

That being so, I see no reason to continue with this petition, because as regards the prayer for protection of life and liberty, obviously the State is duty bound to protect such life and liberty of all citizens in terms of Article 21 of the Constitution of India, but as regards the allegation of the petitioners being falsely implicated in different cases at different points of time, this court is neither an investigating agency nor conducting any trial in any particular case, and simply on an averment made that the petitioners are being falsely implicated in different cases, obviously such averment cannot be accepted at face value.

Consequently, with the aforesaid observations, this petition is dismissed.

December 02, 2021
nitin

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes
No.