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

CRM-M-44308-2021

Date of decision:11.11.2021

KAUSHLYA DEVI AND OTHERS

...Petitioners

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr.Sunil Kumar Goswami, Advocate
for the petitioners.

Mr.Pradeep Prakash Chahar, DAG, Haryana.

SURESHWAR THAKUR, J. (ORAL)

1) FIR No.209 dated 01.07.2020 constituting therein offences under Sections 148, 149, 186, 332, 353 and 427 IPC, is registered against the accused, at Police Station Sadar Jind, District Jind, Haryana.

2) After notice of motion sent to the respondent a detailed status report has been filed on behalf of State.

3) Through the instant petition the bail petitioners seek indulgence of anticipatory bail being granted to them with respect to offences supra. However, perusal of paragraph 7 of the status report as instituted to the petition, paragraph 7 whereof stands extracted:

“7. That, thereafter, on 08.01.2021, 15.01.2021, 22.01.2021 written notices were issued to the petitioners-accused for joining the investigation of the case through village Watchman, but the petitioners-accused evaded their legal arrest in this case and it was found that if the accused are arrested then the situation in the village can be tense because the accused belongs to one and the same village and it can

breach the public peace. Therefore, on 29.01.2021 the challan in respect of petitioners-accused (total 19 accused) namely (1) Shalender alias Seena son of Balraj, (2) Krishana wife of Sher Singh, (3) Ganga Dehi wife of Pappu alias Satiosh, (4) Kela wife of Ramphal, (5) Kaushlaya wife of Ravinder son of Dharampal, (6) Bhola alias Sandeep son of Suresh Bhagat, (7) Sanjay son of Shish Pal, (8) Karambir Singh son of Ishwar, (9) Ramphal son of Diwana, (10) Anil alias Mota son of Baljeet, (11) Suman wife of Dilbagh, (12) Santro wife of Randhir, (13) Gurdeep son of Phool Singh, (14) Jaibhagwan son of Dayanand, (15) Satish alias Pappu son of Tek Chand, (16) Pardeep son of Suresh, (17) Santra wife of Zile Singh, (18) Bala wife of Parkash and (19) Farmali wife of Hari Om was prepared and on 11.03.2021, the same was produced in the Ld. Court without arresting them.”

rather reveals, that after completion of investigation, a report under Section 173 has been instituted against the bail petitioners before the learned Magistrate concerned. It appears that the investigating officer concerned, did not deem it fit to solicit, the co-operation of the bail petitioners in the relevant investigation, as there is electronic evidence of participation of bail petitioners, in the relevant offence.

4) Be that as it may it is intimated to this Court, by the learned State counsel, that the Magistrate concerned, has issued summons upon co-petitioner Nos.2, 3, 5, 6, 7 and 11, for theirs respectively recording their appearance before learned Magistrate, on 01.12.2021. However, he also submits, that the learned Magistrate concerned, has issued arrest warrants for securing the respective presences before him, on date supra, hence upon co-bail petitioners No.1, 4, 8, 10, 12, 13, 14, 15, 16, 17, 18 and 19. Therefore, with respect to the co-bail petitioners occurring at serial Nos. 2, 3, 5, 6, 7 and 11, this Court deems it fit to

order that they shall record their respective personal presences before the learned Magistrate concerned, on 01.12.2021. However, with respect to ensuring their making personal appearances before the learned trial Magistrate concerned, the afore shall execute personal surety bonds in the sum of Rs.25,000/- each, to the satisfaction of the arresting officer, and, also make an undertaking on affidavit before him, that they shall ensure their respective personal presences before the learned Magistrate concerned, on date supra. It is expected the afore directions shall come to be complied with by the afore bail petitioners. In case the afore made direction are breached, it would be open to the investigating officer to seek appropriate directions from the Magistrate concerned. Moreover, upon their appearance before the learned Magistrate concerned, on date supra, he may, if he deems it fit make a lawful order or in case he deems it legally fit he may direct them to make an application, for grant of regular bail, and, thereons he shall make lawful orders.

5) However, since with respect to bail petitioners, from serial Nos. 1, 4, 8, 10, 12, 13, 14, 15, 16, 17, 18 and 19, the Magistrate concerned, has issued arrest warrants, hence for ensuring their respective personal appearances before him, on 01.12.2021. Therefore, when it appears that the learned Magistrate concerned, is of the considered view, that the incriminatory role of the bail petitioners supra, is graver than that of the above bail petitioners at serial Nos. 2, 3, 5, 6, 7 and 11. However, since the learned Magistrate concerned, alone has jurisdiction to recall the arrest warrants, on such conditions, as he deems fit to impose upon bail petitioners supra. Therefore, it is directed that the afore bail petitioners shall surrender, before the learned Magistrate concerned, on 15.11.2021. On the afore accused making their respective personal appearances before the learned Magistrate concerned, the latter shall proceed to make appropriate orders in

accordance with law, upon, any application as becomes moved, before him, by the afore. For ensuring that, upto the afore date i.e. 15.11.2021, the personal liberty of the afore is protected, hence the Executing Officer may not proceed to execute the arrest warrants, if any, as become issued upon them, by the Magistrate concerned.

Disposed of.

(SURESHWAR THAKUR)
JUDGE

11.11.2021
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Whether speaking/reasoned:-	Yes/No
Whether reportable:-	Yes/No