

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

203/2

**CRM-M-47178-2019
Date of decision: 12.08.2021**

SURINDER KAUR AND OTHERS

.....Petitioners

Versus

STATE OF PUNJAB AND ANR.

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Swarn Tiwana, Advocate
for the petitioners.

Mr. P.S. Walia, Asstt. A.G. Punjab
for the respondent-State.

Mr. Rahul Sharma, Advocate
for respondent No. 2.

ARUN KUMAR TYAGI, J. (ORAL)

(The case has been taken up for hearing through video conferencing.)

The petitioners have filed the present petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail in case FIR No. 83 dated 19.10.2019 registered under Sections 379, 427, 447, 511, 148 and 149 of the Indian Penal Code, 1860 at Police Station Mulepur, District Fatehgarh Sahib.

This Court had, vide order dated 05.11.2019, while issuing notice of motion, granted interim anticipatory bail to the petitioners with direction to join the investigation and relevant part of the above said order reads as under:-

“Prayer in this petition is for grant of anticipatory bail to the petitioners in case FIR No.83 dated 19.10.2019 registered under Sections 379, 427, 447, 511, 148 and 149 of the Indian Penal Code, 1860 at Police Station Mulepur, District Fatehgarh Sahib.

Heard.

Notice of motion for 08.01.2020.

On the asking of the Court, Mr. Sandeep Singh Deol, DAG, Punjab accepts notice on behalf of respondent No.1. Copy of the petition is supplied to learned State Counsel, who seeks time to complete his instructions.

Presence of the complainant is considered to be necessary for just decision of the petition. On oral request of the counsel for the petitioner, complainant is ordered to be impleaded as respondent No.2. Memo of Parties be amended accordingly.

Notice to respondent No.2 be issued for that date. Dasti as well if so desired.

In the meanwhile, the petitioners are directed to join the investigation as and when called upon to do so. In the event of their arrest, the petitioners be released on interim bail by the arresting officer/investigating officer on their furnishing of bail bonds to the satisfaction of the arresting officer/investigating officer. The petitioners shall comply with the conditions enumerated under Section 438(2) of the Cr.P.C. failing which they shall forfeit the benefit of interim bail allowed to them. ”

The petition has been opposed by the learned State Counsel and learned counsel for the complainant. However, no reply has been filed by the respondent-State and the complainant.

I have heard learned Counsel for the petitioners, learned State Counsel and learned counsel for the complainant and I have gone through the record.

Learned Counsel for the petitioners has submitted that the petitioners being co-sharers filed suit for permanent injunction in which an ad-interim injunction was issued in their favour and the petitioners harvested crop from the land in their possession. Respondent No.2 filed suit for permanent injunction in which ad interim injunction was declined. The petitioners have been falsely implicated in the present FIR. In compliance with order dated 05.11.2019, the petitioners have joined the investigation and they may be granted anticipatory bail as their custodial interrogation is not required in the case.

On the other hand, learned State Counsel and learned counsel for the complainant have argued that the petitioner trespassed into the land in possession of the complainant, committed mischief and

theft by illegally harvesting the crop. In view of gravity of accusation, the petitioners do not deserve grant of anticipatory bail. Therefore, the petition may be dismissed.

However, learned State Counsel has, on instructions from ASI Jagjit Singh, acknowledged that in compliance with order dated 05.11.2019 passed by this Court, the petitioners have joined the investigation and that their custodial interrogation is not required in the case.

In view of the facts and circumstances of the case, nature of accusation against the petitioners, the fact that custodial interrogation of the petitioners is not required in the case and there is no material to justify the apprehension of the petitioners fleeing from justice or tampering with evidence or criminally intimidating the prosecution witnesses, but without expressing any opinion on the merits of the case, I am of the considered view that the petitioners deserve the grant of anticipatory bail.

In view of the above, the petition is allowed and order dated 05.11.2019 granting interim bail to the petitioners is made absolute. However, the petitioners shall join the investigation again if and as and when called upon to do so and shall abide by the conditions enumerated in Section 438 (2) of the Cr.P.C., failing which the protection of anticipatory bail order shall not be available to them.

12.08.2021

Vishal

(ARUN KUMAR TYAGI)
JUDGE

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