

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

205

CRM-M-8240-2020

Date of Decision : January 10, 2022

SHALNI BASSI

.....Petitioner

VERSUS

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Through Video Conferencing

Present : Mr. Ramandeep, Advocate
for the petitioner.

Ms. Rashmi Attri, AAG, Punjab.

Mr. Rajat Malhotra, Advocate
for the complainant.

JASGURPREET SINGH PURI. J. (Oral)

The present petition has been filed under Section 438 Cr.P.C.
for grant of anticipatory bail to the petitioner in case FIR No.222 dated
30.8.2019 under Section 380 of IPC, registered at Police Station, Civil
Lines, Patiala, District Patiala.

The learned counsel for the petitioner has submitted that vide
order dated 26.2.2020 notice of motion was issued by this Court and the
petitioner was granted interim protection. He has submitted that in
pursuance of the aforesaid order, the petitioner has joined the
investigation and has also cooperated with the investigation process. He
submitted that earlier the learned State counsel has taken up a stand that
although the petitioner has joined the investigation but she has not

cooperated with the investigation process but thereafter the petitioner has again joined the investigation and has fully cooperated with the investigation process and, therefore, the order dated 26.2.2020 may be made absolute.

As per the FIR which was lodged by the complainant, namely, Rahul Arora, who is the husband of Pooja against the petitioner on the basis of suspicion that the petitioner had committed theft of gold ornaments. As per the allegations, the aforesaid Pooja, wife of the complainant, was working in Sofia Institute Leela Bhawan, Patiala whereas the petitioner was residing as a tenant in Centuary Enclave, Patiala and was also working in Sofia Institute Leela Bhawan, Patiala and they had become friends. However, on 14.8.2019 at around 12.50 p.m. when Pooja was returning home from her office and on the way she met her friend, who is the petitioner in the present case and she stopped Pooja and told her that she was coming to meet her and thereafter Pooja alongwith the petitioner came home on Activa Scooter where Pooja took her in her mother's room and thereafter she told Pooja that she was suffering from headache and needed some rest, then Pooja took her to her bedroom where she laid down on the bed and after some time when Pooja went to kitchen for preparing lunch and the door of the room was closed partially and afterwards they had lunch together and thereafter Pooja had to go to her parental house because of the festival of Raksha Bandhan and she took the petitioner alongwith her and dropped her at her house. However, on 15.8.2019 when Pooja came back she found that her Mangal Sutra, two rings, four bangles, one gold chain total weighing around 8

tolas and Rs.8,000/- were stolen and she got suspicious that the petitioner had committed the theft of gold ornaments and money.

The learned counsel for the petitioner has further submitted that the story made by the complainant in the FIR itself is totally vague and the entire FIR is based upon suspicion. He further submitted that both the petitioner and the complainant were friends and there is nothing to show that the petitioner has committed the theft of gold ornaments. He has further submitted that the petitioner has already joined the investigation in pursuance of the order passed by this Court and the stand taken by the State as well by the learned counsel for the complainant that recovery of gold ornaments has already been made and, therefore, the petitioner has not cooperated with the investigation process cannot become a ground for denial of bail. He submitted that it is not a case where the custodial investigation of the petitioner, who is a lady of 39 years of age is required because the petitioner has already joined the investigation. He submitted that the petitioner has not committed any kind of theft and, therefore, there was no question of getting any gold ornaments recovered from the petitioner and rather the custodial investigation of the petitioner, who is a lady would amount to abuse of the process of law and, therefore, has prayed that the order dated 26.2.2020 may be made absolute and the petition be allowed.

On the other hand, learned State counsel on instructions from HC Balwinder Singh has stated that it is correct that in pursuance of the order passed by this Court on 26.2.2020, the petitioner has joined the investigation. However, the petitioner has not cooperated with the

investigation process because no recovery could be effected from her nor she has surrendered the gold ornaments.

Mr. Rajat Malhotra, Advocate, who has caused appearance on behalf of the complainant has submitted that the petitioner is not entitled for the grant of anticipatory bail in view of the fact that the theft items have not been recovered as yet. He submitted that even in CCTV camera footage the petitioner was seen taking out Rs.8,000/- from Activa Scooter and, therefore, he has opposed the grant of anticipatory bail to the petitioner.

I have heard the learned counsels for the parties.

On 26.2.2020, this Court had granted interim protection to the petitioner while issuing notice of motion and as per learned State counsel in pursuance of the aforesaid order, the petitioner has joined the investigation but has not cooperated with the investigation process. However, both the learned State counsel as well as the learned counsel for the complainant have opposed the grant of anticipatory bail to the petitioner on the ground that even if the petitioner has joined the investigation but she has not cooperated with the investigation process because the theft items were not recovered from her as yet. The petitioner is a lady of the age of 39 years and even as per the contents of the FIR both of them were friends and FIR has been registered on the basis of the allegations made by the complainant that the petitioner has committed the theft. However, the petitioner has denied having made any theft as the entire FIR was based upon suspicion. It is yet to be determined as to whether the petitioner or some body else had committed

the theft. The present petition pertains to the prayer for the grant of anticipatory bail. It is a settled law that the Court has to strike a balance between the freedom of an individual on the one hand and on the other hand the seriousness and the magnitude of the case and the antecedents of the accused person. Furthermore on being categorically asked from the learned counsel for the parties as to whether there is any earlier FIR against the petitioner or not, learned counsel for the petitioner has stated that there is no FIR whatsoever against the petitioner in any case. The learned State counsel as well as learned counsel for the complainant have not been able to provide any document as to whether the petitioner was involved in any other case earlier or not. However, the learned counsel for the complainant has stated that she was earlier also found stealing and she was shunted out from the Sofia Institute Leela Bhawan, Patiala but there is no FIR in this regard.

In the present case, the petitioner has already joined the investigation but the non-recovery of theft items cannot become a ground for denial of anticipatory bail to the petitioner.

Therefore, 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 and the order dated 26.2.2020 is, hereby, made absolute.

(JASGURPREET SINGH PURI)
JUDGE

January 10, 2022

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Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No