

**208 IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH****CRM M-15646-2023 (O&M)
Date of Decision: 13.07.2023**

Rakesh Kumar and another

.....Petitioners

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR.JUSTICE MAHABIR SINGH SINDHUPresent: Mr. Vikas Gulia, Advocate,
for the petitioners.Mr. Bhupender Singh, DAG, Haryana
assisted by ASI Narender.**MAHABIR SINGH SINDHU. J.**

Present petition has been filed under Section 438 of the Code of Criminal Procedure (for short “Cr.P.C”) for grant of pre-arrest bail to the petitioners in FIR No.88 dated 28.02.2023, under Sections 148, 323, 379-B and 506 read with Section 149 IPC registered at Police Station Murthal, District Sonipat.

2. Allegations in brief: petitioners along with co-accused made complainant to stop his truck; pulled him. Petitioner No.2 caught hold of him and other accused gave fist and kick blows to him. On seeing Ankit, accused fled away from the spot while snatching Rs.7200/- from the complainant.

3. The Coordinate Bench vide order dated 28.03.2023, granted interim bail to petitioner No.1 and the same reads as under:-

“Learned counsel for petitioners inter alia submits that though the petitioners have been named in the FIR, however, no specific role has been attributed to the petitioner No.1-Rakesh. He also submits that the FIR in question is primarily an offshoot of

complaints made by petitioners against “Zelkova Mining Company” which is carrying out mining activity in the area/village having obtained mining license from the mining authorities.

Notice of motion for 03.05.2023.

In the meanwhile, petitioner No.1 will join investigation before the Investigating Officer as and when called. In the event of his arrest, the Arresting Officer would admit him to interim bail, till the next date of hearing, on his furnishing adequate bail and surety bonds to his satisfaction. The petitioner No.1 is also directed to abide by all the conditions as envisaged under Section 438(2) of Code of Criminal Procedure, 1973.”

4. Thereafter, vide order dated 03.05.2023, petitioner No.2 was also directed to join investigation in the following terms:-

“Learned State counsel submits that in pursuance to last order dated 28.03.2023, the petitioner No.1 has failed to join the investigation.

The petitioner No.1 is directed to join investigation again as and when called by Investigating Officer through notice in writing.

Adjourned to 13.07.2023.

In the meanwhile, petitioner No.1 will join investigation before the Investigating Officer as and when called. In the event of his arrest, the Arresting Officer would admit him to interim bail, till the next date of hearing, on his furnishing adequate bail and surety bonds to his satisfaction. The petitioner No.2 is also directed to abide by all the conditions as envisaged under Section 438(2) of Code of Criminal Procedure, 1973.”

5. Learned counsel on instructions from petitioners submits that in pursuance of the aforesaid orders, both of them have joined investigation and their custodial interrogation is not required by the Police.

6. The above factual position is duly acknowledged by learned State Counsel, on instructions from quarter concerned and fairly submitted that custodial interrogation of the petitioners is not required at this stage.

7. In view of above, interim orders dated 28.03.2023 & 03.05.2023 are made absolute subject to the conditions as envisaged under Section 438(2) Cr.P.C.

8. It is also made clear that petitioners shall fully co-operate with the Investigating Officer as and when called for further investigation.

9. The above observations may not be construed as an expression of opinion on merits of the case; rather confined only to decide the present bail matter.

10. Disposed off accordingly.

11. Pending criminal misc. application(s), if any, shall also stand disposed off.

13.07.2023

SN

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable: Yes/No