

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

CRM-M-26730-2023 (O&M)
Date of decision : 31.07.2023

Avkar Singh @ Bhakka

...Petitioner(s)

Versus

State of Punjab

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Simranjit Singh, Advocate for the petitioner.

Mr. Amish Sharma, AAG, Punjab for the respondent.

Mr. H.S.Batth, Advocate for the complainant.

MAHABIR SINGH SINDHU, J.

Present petition under Section 438 of the Code of Criminal Procedure has been filed for grant of pre-arrest bail to the petitioner in FIR No.41 dated 29.03.2023, under Sections 380, 467, 379-B, 323, 447, 511, 506, 34 of the Indian Penal Code, 1860 (*for short 'the IPC'*), registered at Police Station Bhikhiwind, District Tarn Taran.

(2) It transpires that above FIR was registered on the basis of statement made by complainant-Upkardeep Singh to the effect that on 29.03.2023 at about 09:00 AM, when he was coming to his shop, along with his family members, he found that the main gate/shutter of his shop was

uprooted and his goods were stolen. Thereafter, accused Sitara Singh and petitioner-Avkar Singh also reached at the spot; started calling bad names and gave fist blows. When complainant tried to separate the assailants from his wife, then petitioner started slapping her. Meanwhile, son of the complainant was preparing the video on his mobile phone; but the same was also snatched by Avkar Singh. There is a civil dispute pending between the parties as petitioner had tried to take the possession of property forcibly on the basis of forged Agreement to Sell. Both the accused also threatened the complainant with dire consequences.

(3) This Court, vide order dated 13.06.2023, granted interim bail to petitioner and the same reads as under:-

“Contends, inter-alia, that agreement between the parties was executed way back on 22.02.2018 (P-3) and suit for specific performance at the instance of petitioner is already pending before the Court of competent jurisdiction at Tarn Taran.

Notice of motion.

Mr. Ferry Sofat, Addl. AG, Punjab, accepts notice and seeks time to have instructions in the matter.

Mr. H.S. Batth, Advocate appears for complainant and seeks time to verify the factum of agreement to sell as well as civil suit (supra).

Posted on 31.07.2023.

In the meanwhile, petitioner shall join investigation before the Investigating Officer. In the event of his arrest, the Arresting Officer would admit him to interim bail, till the next date of hearing, on furnishing adequate bail and surety bonds to his satisfaction. The petitioner shall also abide by all the conditions as envisaged under Section 438(2) of Code of Criminal Procedure, 1973.”

(4) Learned counsel submits that in pursuance of the aforesaid order, petitioner has already joined the investigation and his custodial interrogation is not required.

(5) Learned State Counsel has filed status report by way of affidavit dated 31.07.2023 of Sh. Preetinder Singh, DSP, Sub Division Valtoha Camp at Bhikhiwind, District Tarn Taran. The same is taken on record. Copy thereof supplied to the opposite side. Learned State Counsel, on instructions from ASI Talwar Singh, submits that petitioner has joined investigation and as on today, his custodial interrogation is not required.

(6) Although, learned Counsel for the complainant has vehemently opposed the prayer; but keeping in view the fact that State is not asking for the custodial interrogation of the petitioner; thus, the objection is rejected.

(7) In view of above, interim order dated 13.06.2023 is made absolute subject to the conditions as envisaged under Section 438(2) Cr.P.C.

(8) It is also made clear that petitioner 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.

July 31st, 2023
Gagan

(MAHABIR SINGH SINDHU)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>