

CRM-M No.30100 of 2023 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M No.30100 of 2023 (O&M)
Date of decision : 11.09.2023

Sahib Singh and anr.

....Petitioners

Versus

State of Punjab

....Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present :- Mr. Deepinder Brar, Advocate for the petitioners.

Mr. Tarun Aggarwal, Sr. DAG, Punjab.

Mr. P.K.S. Phoolka, Advocate
for the affected person.

PANKAJ JAIN, J. (ORAL)

1 The petitioners have prayed for grant of pre-arrest bail in FIR No.47 dated 19.04.2023 registered under Sections 353, 186, 380 IPC, at Police Station Nathana, Bathinda.

2 On 20.06.2023, the following order was passed:

“1. Apprehending their arrest in FIR No.47 dated 19.04.2023, registered under Sections 353, 186 & 380 of the IPC at Police Station Nathana, Bathinda, petitioners seeks pre-arrest bail.

2. Status report by way of an affidavit of Rashpal Singh, PPS, Deputy Superintendent of Police, Sub Division Bhucho, District Bathinda, has been filed on behalf of the respondent-State in the Court, same is taken on record.

3. Learned counsel for the petitioners inter alia submits that there is a serious dispute between the parties with respect to the possession of the shops and hopefully contested civil lis is pending wherein the Civil Court has granted status quo in the application filed by the petitioner under Order 39 Rules 1 & 2. The present complaint is only a ploy to create an evidence that it is the other party who is in the possession of the shop.

4. *Adjourned to 20.07.2023.*

5. *In the meantime, in the event of arrest, the petitioners shall be released on interim bail subject to their furnishing personal and surety bonds to the satisfaction of the arresting officer/Investigating Officer. As and when called, petitioners shall join the investigation. They shall abide by the conditions enumerated under Section 438(2) of the Cr.P.C. ”*

3 Today, learned State counsel, on instructions from ASI Mander Singh, has stated that though the petitioners have joined investigation but recovery of stolen articles is yet to be effected as claimed in para 4 of the status report filed by way of affidavit of Rashpal Singh, PPS, Deputy Superintendent of Police, Sub Division Bhucho, District Bathinda, which reads as under:-

“4. That it is denied that the petitioners have been falsely implicated. It is denied that the petitioners have not committed the offences of the FIR in question. The petitioners and co-accused are absconding. The custodial interrogation of the petitioners is required to investigate the case effectively and to recover Rs 1,27,990/-, eight qtls. Wheat, two Qtls, Narma, three Qtls. Sarson, one Scooter Bajaj Chetak, 200 tiles (stone), scrap material and to know the whereabouts of co-accused who are also absconding. The case of the prosecution stands on sound footing. There is sufficient evidence against the petitioners and co-accused to prove their guilt before the learned trial court. No cause of action has accrued to the petitioners to file the present petition.”

4 Mr. P.K.S. Phoolka, Advocate, submits that keeping in view the seriousness of allegations leveled against the petitioners who are accused of having created obstruction in the official duty of the police officials, the petitioners do not deserve extraordinary relief of pre-arrest bail.

5 I have heard learned counsel for the parties and have gone through the records. The articles as alleged in the status report are yet to be recovered and that so far as wheat, Narma, Sarson etc., are concerned, this Court finds that there cannot be any identification of such stolen property and for that reason custodial interrogation of the petitioners is not warranted.

6 In view of the above, interim order dated 20.06.2023 passed by this Court is made absolute, subject to the conditions as enumerated under Section 438(2) Cr.P.C.

7 This order should not be treated as "blanket" order. It will not be read granting petitioners indefinite protection from arrest. It shall be confined to the FIR mentioned *ibid* and will not operate in respect of any other incident that involves commission of an offence.

8 This order does not in any manner limit or restrict the rights or duties of the police or investigating agency, to investigate into the charges against the petitioners.

9 The petitioners shall be deemed to be in custody for the purpose of Section 27 of the Evidence Act, 1872 in regard to a discovery of facts made in pursuance of information supplied by the petitioner in case the occasion arises.

10 It will be open to the police or the investigating agency to move this court for a direction under Section 439 (2) Cr.P.C. to arrest the accused, in the event of violation of any term, such as absconding, non-cooperating during investigation, evasion, intimidation or inducement to witnesses with a view to influence outcome of the investigation or trial.

11 Petition stands disposed of.

12 Needless to say that anything observed herein shall not be construed to be an opinion on the merits of the case.

11.09.2023
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(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned: Yes
Whether Reportable : No