

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

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CRM-M-35642-2022 (O&M)
Date of decision: 13.12.2023

Naresh and others**...Petitioners****Versus****State of Haryana and another****...Respondents****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Sukesh K. Jindal, Advocate
for the petitioners.

Mr. Neeraj Poswal, AAG, Haryana.

Mr. Govind Chauhan, Advocate
for respondent No.2/complainant.

MANISHA BATRA, J. (Oral)

1. This petition has been filed by the petitioners under Section 438 Cr.P.C. seeking grant of anticipatory bail in FIR No. 289 dated 23.07.2022, registered under Sections 323, 354, 379-A, 452, 509 and 34 of the IPC at Police Station Ram Nagar, Karnal.

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on the basis of a written complaint submitted by complainant Sunil alleging therein that on 22.07.2022 at about 4-5 P.M., he was present in his house along with his family members, when the petitioners Naresh, Rahul and Deepak, who are the real brothers of the wife of the complainant, along with some other persons

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criminally trespassed into his house at once and after picking up his two children, who were playing there, they moved outside. The complainant asked them about the reason for taking away his children and on this, the petitioners and others, while hurling abuses, had assaulted the complainant. Petitioner Naresh made exhortations that the complainant was in proud and used to harass his sister and he should be taught a lesson. All of them assaulted the complainant and complainant's sisters were also extended severe beatings, due to which, they sustained injuries. The incident was recorded in the CCTV camera, which was installed in his house. The complainant and his family members were rescued by the neighbours. His gold chain and locket were snatched by the assailants. Accused Rahul and Deepak tore off and removed the clothing of the sisters of the complainant and outraged modesty of his sister Savita. Wife of the complainant, Jyoti, had also joined the assailants and on exhortation being made by her, accused Rahul and Deepak tried to forcibly took his sister in a vehicle. The complainant and his sisters, however, were saved with the intervention of the neighbours. The assailants took the wife and the younger son of the complainant along with them, while extending threat to kill him. After registration of the FIR, investigation proceedings have been initiated and the same are going on.

3. The present petition has been filed by the petitioners on the ground and it has been argued by their counsel that they have been falsely implicated in this case. Infact, Jyoti, who is the wife of the complainant, was being harassed and tortured by the complainant and on 22.07.2022, the complainant, his sisters and mother had assaulted Jyoti and she was confined in a room along with her children after being extended beatings. She had told

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about the incident to her parents and on hearing so, the petitioners, who are brothers of Jyoti, had come to her matrimonial house to take her back when abuses were hurled by them and they were extended beatings by the complainant and his family members. The custodial interrogation of the petitioners is not required. No recovery is to be effected from them. They are ready to join investigation. Therefore, he has argued that the present petition deserves to be allowed.

4. The respondent-State has filed status report. Vide order dated 18.08.2022, the petitioners were directed to join investigation. As per status report filed on 18.07.2023, they have joined investigation but some recovery is to be effected from the petitioners. Learned State counsel has submitted that during the course of investigation, offence under Section 379-A IPC has been deleted and offence under Section 201 IPC has been added. It is well settled proposition of law that non-recovery of the case property/articles is not a ground to deny benefit of anticipatory bail to the accused. The custodial interrogation of the petitioners is not required. Co-accused Jyoti and Bala Devi have already been extended benefit of anticipatory bail.

5. I have heard learned counsel for the parties and have also gone through the materials placed on record very carefully.

6. The petitioners, who are brothers of co-accused Jyoti, wife of the complainant, are alleged to have criminally trespassed into the house of the complainant/respondent No. 2 on 22.07.2022 and are further alleged to have assaulted him and his family members. They are further alleged to have outraged the modesty of one of the sisters of the complainant and it is also alleged against them that they had tore off the clothing of the sisters of the

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complainant. They have joined investigation. Now, as per learned State counsel, their custodial interrogation of the petitioners is not required. No recovery is to be effected from them since offence under Section 379-A IPC stands deleted during investigation. Respondent No. 2/complainant, in his reply to the present petition, has admitted the fact that the footage of the CCTV camera, installed in his house, did not show the factum of snatching of gold chain and locket from him or about the factum of tearing off the clothing of his sisters by the petitioners. This appears to be a dispute arising out of a matrimonial discord between respondent No. 2/complainant and co-accused Jyoti. No useful purpose would be served by detaining the petitioners in custody. Their presence can be secured even otherwise also. Keeping in view the nature of offences and the attendant facts and circumstances of the case, I am of the considered opinion that the present petition deserves to be allowed.

7. Accordingly, the present petition is allowed and the order dated 18.08.2022, granting interim bail to the petitioners, is made absolute, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure.

13.12.2023

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No