

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

**CRM-M-6608-2024 (O&M)
Date of decision :23.04.2024**

Bakhshi @ Mukesh Kumar and another

...Petitioners

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Karanvir Singh, Advocate for
Mr. Ashok Kumar Khunger, Advocate for the petitioner.

Ms. Manjot Kaur, AAG, Punjab for the respondent.

MAHABIR SINGH SINDHU, J.

Present petition has been filed under Section 438 of the Code of Criminal Procedure, 1973 for grant of pre-arrest bail to the petitioner in FIR No.0126 dated 03.12.2023, under Sections 447, 427, 431, 283, 147 read with Section 149 of the Indian Penal Code, 1860; Section 3 of the Public Property (Prevention of Damage) Act, 1985[*sic- Prevention of Damage to Public Property Act, 1984*], registered at Police Station Bahawala, District Fazilka.

(2) Above FIR was registered on the basis of statement made by complainant-Het Ram with the allegations that petitioners, along with co-accused, formed an unlawful assembly; in prosecution of their common

object tried to take possession of his land with the help of tractor, cultivator, Car & Kahi and demolished the Government property i.e. watercourse, leading to the land of complainant.

(3) Contends that petitioners were granted interim bail by this Court, vide order dated 08.02.2024 and in pursuance thereof, they have already joined investigation; thus, their custodial interrogation is not required.

(4) Learned State Counsel, on instructions from ASI Lakhwinder Singh, acknowledged the above factual position and submits that as on today, custodial interrogation of the petitioners is not required.

(5) Heard learned Counsel for the parties and perused the paper-book.

(6) It is not in dispute that petitioners were granted interim bail by this Court on 08.02.2024 and the order reads as under:-

“Contends that co-accused with similar allegations have already been granted concession of pre-arrest bail by this Court vide order dated 01.02.2024 (P-3).

Notice of motion.

Mr. Joginder Pal Ratra, Sr. DAG., Punjab, accepts notice on behalf of the respondent-State and seeks time to have instructions and/or file written response in the matter.

Posted for 23.04.2024.

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

(7) It is acknowledged by learned State Counsel on instructions from ASI Lakhwinder Singh that in pursuance of the aforesaid order, petitioners joined investigation and as on today, their custodial interrogation is not required.

(8) In view of the above, present petition is allowed; interim order dated 08.02.2024 is made absolute subject to the conditions as envisaged under Section 438(2) Cr.P.C.

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

(10) 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.

(11) It is clarified that in case there is recurrence on the part of the petitioners, State would be at liberty to move an appropriate application for recalling of this order.

(12) Pending application(s), if any, shall also stand disposed off.

23rd April, 2024
Gagan/v

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No