

CRM-M-17887-2024

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

CRM-M-17887-2024
Reserved on 16.05.2024
Date of decision: 23.05.2024

Jaswinder Kaur and Others

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Argued by: Mr. Deepak Kumar Bhatia, Advocate for the petitioners.

Mr. Inderjeet Singh, DAG, Punjab.

Dr. Sumati Jund, Advocate for the complainant.

KARAMJIT SINGH, J. (ORAL)

1. The present petition has been filed by the petitioners under Section 438 Cr.P.C. for grant of anticipatory bail in case having FIR No.76 dated 10.03.2024 registered under Sections 448, 323, 341, 506, 427, 148, 149 IPC (offence under Section 380 added later on) at Police Station Dera Bassi District SAS Nagar.

2. The brief facts of the case are that complainant Pawan Yadav got recorded his statement with the police that he was doing business of shuttering material and his shuttering store is there in the area of village Mor Thikri. That previously he and petitioner No.2 Kamaldeep were running the joint business but thereafter some settlement was effected between them and then complainant started running the said shuttering business independently and also repaid loan (outstanding limit of Rs.6,00,000/-). That agreement

with regard to the sale of adjoining house was also executed between the complainant and petitioner No.2 and complainant also paid sale consideration with regard to said house to petitioner No.2. That, however, few days back petitioner No.2 asked the complainant to vacate the aforesaid shuttering store and then the complainant filed civil suit. That on 05.03.2024, after closing his store, complainant went to his house. At about 8:00 p.m. he checked the CCTV camera installed in the store through his mobile phone and found that petitioner No.1 Jaswinder Kaur and petitioner No.3 Sonia, mother-in-law and wife of petitioner No.2 respectively were breaking lock of his store with the help of cutter and hammer and his neighbor also informed the complainant about said incident. On this, complainant reached his store and found its door closed from inside. Then he scaled the wall from back side and entered his store and saw that aforesaid Jaswinder Kaur and Sonia along with two unknown ladies were breaking the cabin and they uprooted wires of camera and switched of the lights and tried to fled away along with DVR. However, the complainant snatched said DVR from Jaswinder Kaur and complainant also chased them and in the meantime petitioner No.2 also came there and then they attacked complainant and caused injuries to him. While going away, the accused persons took away laptop of dell company and cash lying on the counter. The complainant saved his life by running away from there and was admitted in Civil Hospital, Dera Bassi.

3. The counsel for the petitioners submits that petitioner No.2 started running a joint business of shuttering material with the complainant. Subsequently, petitioner No.2 handed over the entire business to the

complainant to look after. Thereafter, dispute arose between the parties with regard to accounts of the joint business. Petitioner No.2 asked the complainant to settle the accounts but the complainant started dilly dallying the matter on which the petitioner No.2 filed a suit for permanent injunction (Annexure P-2) against the complainant and in order to counterblast the same, the complainant lodged false FIR in the present case wherein petitioner No.2, his wife Sonia and mother in law Jaswinder Kaur are falsely roped in. It is further submitted that initially, FIR in this case was registered under bailable offences but later on offence under Section 380 IPC was added on the basis of false allegations of theft of laptop and cash. It is further submitted that petitioners who are falsely implicated in the present case are ready to join the investigation with the police.

4. The State counsel as well as counsel for the complainant have submitted that the entire incident was captured in CCTV camera installed at the spot, wherein petitioner No.1 and petitioner No.3 are clearly visible while they were breaking open the lock of the store. It is further contended that firstly, petitioners No.1 and 3 entered the store and they removed wires of the CCTV camera and thereafter petitioner No.2 also entered the store to commit theft. It is further submitted that petitioner No.2 is not visible in the CCTV footage as he entered the store, after the CCTV camera's wires were disconnected by other two petitioners. It is further submitted that at the time of occurrence, the petitioners also assaulted the complainant and while leaving the store they took away laptop and cash which was lying on the counter. It has been further submitted that the recoveries of aforesaid stolen articles are to be effected and that custodial interrogation of the petitioners is

required.

5. I have considered the submissions made by counsel for the parties.

6. The alleged incident was captured in CCTV camera and as per the State counsel, petitioners No.1 and 3 and some other ladies are visible in the CCTV footage, while they were breaking open the lock of the store of the complainant and as per police version, they pulled out wires of the CCTV camera and there are also allegations that all the petitioners, thereafter, committed theft of laptop and cash from the store of the complainant and also attacked the complainant who reached the spot. Copy of the concerned photographs of the CCTV footage are available on the record.

7. The Hon'ble Supreme Court in *State Represented by CBI Vs. Anil Sharma 1997 (4) RCR (Criminal) 268* observed that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favourable order under Section 438 Cr.P.C. In a case like this effective interrogation of the suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Success of such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail during the time he is interrogated. Very often interrogation in such a condition would reduce to a mere ritual.

8. The allegations appearing on the record against the petitioners are of serious nature and part of the incident was captured in the CCTV camera installed at the spot. Further, the recovery of the stolen articles is yet

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to be effected.

9. For the foregoing reasons, no ground is made out to grant of concession of anticipatory bail to the petitioners. Consequently, the present petition is hereby dismissed.

10. However, it is made clear that any observation made herein above is not to be construed as an expression of opinion on the merits of the case. The admissibility of the aforesaid CCTV footage during trial will be subject to provisions of the Evidence Act.

23.05.2024

Yogesh

**(KARAMJIT SINGH)
JUDGE**

**Whether speaking/reasoned:-
Whether reportable:-**

**Yes/No
Yes/No**