

204(2) **IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

CRM M-28364-2023 (O&M)

Date of Decision: 19.03.2024

Yogesh and another

..... Petitioners

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR.JUSTICE MAHABIR SINGH SINDHU

Present: Mr.Partap Singh, Advocate,
for the petitioners.

Mr.Kiran Pal Singh, Haryana.

Mr. Parmod K. Parmar, Advocate,
for the complainant.

MAHABIR SINGH SINDHU. J.

Present petition has been filed under Section 438 of the Code of Criminal Procedure (for short “Cr.P.C”) for seeking pre-arrest bail in FIR No. 165 dated 01.05.2023 registered under Sections 380, 384, 448, 454 & 506 read with Section 34 IPC at Police Station, Bilaspur, District Gurugram.

2. The FIR was lodged by Jai Bhagwan with the allegations that petitioners along with co-accused Manoj @ Aulia after sharing common intention, broke open the lock of his plot and committed theft of articles. Petitioner No.2-Hansraj and co-accused Manoj @ Aulia demanded extortion money of Rs.10 lakh from the informant and threatened him with dire consequences.

3. A Coordinate Bench of this Court vide order dated 01.06.2023, granted interim bail to petitioners and the same reads as under:-

“The instant petition under Section 438 Cr.P.C., has been filed for grant of anticipatory bail to the petitioners in FIR No.0165, dated 01.05.2023, under Sections 34, 380, 384, 448, 454 and 506 of the IPC, 1860 registered at Police Station Bilaspur, District Gurugram (Annexure P-1).

Learned counsel for the petitioners contends that on a perusal of the contents of FIR, it is abundantly clear that the dispute involved therein is civil in nature and no criminal liability can be fastened upon the petitioners. The FIR is asserted to be a concocted story with the sole purpose of using it an arm twist method, wherein the real dispute between the parties relates to the sale of a land-plot belonging to the complainant situated at Pataudi, Bilaspur, in which two shops have been constructed.

Notice of motion.

On the asking of Court, Mr. Gagandeep Singh Chhina, AAG, Haryana, accepts notice on behalf of respondent-State, who on the basis of pervi report submits that the allegations in the FIR are very clear to deny the concession of anticipatory bail itself, wherein the petitioners have encroached upon land belonging to the complainant in an illegal and unauthorised manner. He further asserts that co-accused Manoj is a history sheater working in a group of land mafia.

Be that as it may, as far as the role attributed to the present petitioners is concerned, no other case or any such history is referred by learned State counsel and since there is a disputed facts with regard to the ownership over the land -plot in question to which civil remedies are available with the complainant, hence there is no such material for which custodial interrogation is required, as such, the petitioners are directed to be released on interim bail in case they join the investigation on furnishing personal surety/security bonds to the satisfaction of Arresting Officer/Investigating Officer. The petitioners will also come present as and when called for and cooperate in investigation and shall abide by the conditions as envisaged under Section 438 (2) Cr.P.C.

Adjourned to 15.09.2023.”

4. Learned counsel submits that in pursuance of the aforesaid order, both the petitioners have joined investigation, therefore, their custodial interrogation is not required.

5. The above factual position is duly acknowledged by learned State Counsel, on instructions from quarter concerned and fairly submitted that custodial interrogation of the petitioners is not required, at this stage.

6. Although, learned counsel for complainant objected the prayer for pre-arrest bail, but since State is not asking for custodial interrogation; nor any recovery is to be effected from the petitioners, therefore, the objection of complainant stands rejected. As a result thereof, the interim order dated 01.06.2023 is made absolute, subject to the conditions as envisaged under Section 438(2) Cr.P.C.

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

8. The above observations be not construed as an expression of opinion on merits of the case; rather confined only to decide the present bail matter.

9. Disposed off accordingly.

10. Pending criminal misc. application(s), if any, shall also stand disposed off.

19.03.2024
SN

(MAHABIR SINGH SINDHU)
JUDGE

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