

210-1

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

CRM-M-36018-2023 (O&M)

Date of decision : 15.01.2024

Harjinder Singh

...Petitioner(s)

Versus

State of Punjab and another

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Sandeep Arora, Advocate,
for the petitioner.

Mr. Jashan Preet Singh, DAG, Punjab.

Ms. Arzoo Modi, Advocate,
for Mr. Mohd. Yousaf, Advocate,
for respondent No.2.

MAHABIR SINGH SINDHU, J.

Petition under Section 438 of the Code of Criminal Procedure, 1973 has been filed for grant of pre-arrest bail to the petitioner in FIR No.118 dated 05.08.2022, under Sections 425, 441, 503, 427, 506, 379 read with Section 149 and 120-B of the Indian Penal Code, 1860; and Section 3 of the Prevention of Damage to Public Property Act, 1984, registered at Police Station, Sadar Nakodar, District Jalandhar Rural.

2. Allegations are that petitioner along with his co-accused, cut a tree standing in front of the shops of Gram Panchayat; dispossessed Sunil Khullar, tenant of Gram Panchayat, from the shop

whereby he was running a medical store; and converted the same into their office.

3. This Court, on 27.07.2023, granted interim bail to petitioner and relevant part of the same reads as under:-

“Notice of motion.

On asking of the Court, Mr. Jaiteshwar S. Bhandari, AAG, Punjab accepts notice on behalf of the respondent and seeks time to have instructions and/or file written response in the matter.

Mohd. Yousaf, Advocate has filed Memo of Appearance on behalf of the complainant and seeks time to place on record some documents.

Posted for 31.08.2023.

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

4. Contends that in terms of the aforesaid order, petitioner has already joined investigation and his custodial interrogation is not required.

5. Although, learned State Counsel, on instructions from the police officer present in Court, duly acknowledged that petitioner has joined the investigation, but opposed the prayer on the ground that possession of shop in question has not been handed over, till date.

6. Learned counsel for respondent No.2 also opposed the prayer of petitioner on the premise that he has been illegally and forcibly dispossessed from the shop by the petitioner as well as his co-accused.

7. Concededly, petitioner has joined investigation in terms of the order passed by this Court. So far as the allegation of taking forcible possession of shop is concerned; *prima facie*, the same would be matter of trial and cannot be gone into, at this stage.
8. In view of above, interim order dated 27.07.2023 is made absolute subject to the conditions as envisaged under Section 438(2) Cr.P.C.
9. It is also made clear that petitioner 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. Disposed off accordingly.
12. Pending application(s), if any, shall also stand disposed off.

15.01.2024
atulsethi

(MAHABIR SINGH SINDHU)
JUDGE

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