

210-2

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

CRM-M-43396-2023 (O&M)

Date of decision : 15.01.2024

Dharmpal and another

...Petitioner(s)

Versus

State of Punjab

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Shubham Goyal, Advocate,
for the petitioners.

Mr. Jashan Preet Singh, DAG, Punjab.

Ms. Arzoo Modi, Advocate,
for Mr. Mohd. Yousaf, Advocate,
for the complainant.

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 petitioners in FIR No.118 dated 05.08.2022, under Sections 425, 441, 503, 427, 506, 379, 148 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 petitioners along with their 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 01.09.2023, granted interim bail to petitioners and relevant part of the same reads as under:-

“Learned counsel for the petitioners contends inter alia that co-accused, namely, Harjinder Singh has already been extended the concession of interim pre arrest bail in CRM-M-36018-2023.

Notice of motion for 04.10.2023.

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

To be heard along with CRM-M-36018-2023.”

4. Contends that in terms of the aforesaid order, petitioners have already joined investigation and their custodial interrogation is not required.

5. Although, learned State Counsel, on instructions from the police officer present in Court, duly acknowledged that petitioners have 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 complainant also opposed the prayer of petitioners on the premise that he has been illegally and forcibly dispossessed from the shop by the petitioners as well as their co-accused.

7. Concededly, petitioners have 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 01.09.2023 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. 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