



IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

109

CRM-M-50794-2024
DECIDED ON: 09.10.2024

MAIYA @ MAIA

... PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Mikhil Ked, Advocate for
Mr. Rahul Verma, Advocate
for the petitioner.

Mr. Gurmeet Singh, AAG Haryana.

SANDEEP MOUDGIL, J

1. Relief Sought

The jurisdiction of this Court under Section 482 BNSS has been invoked seeking anticipatory bail to the petitioner in case FIR No. 107, dated 12.06.2024, under Section 379-A of IPC, registered at Police Station Garhi, District Jind.

2. The gravamen of the present case as narrated in the FIR reads as under:-

*"To, The Police Post In-charge Police Post Dhaman Sahib.
Subject- Regarding stealing of gold chain from the neck. Sir, it is*

requested that I Promilla wife of Sohan Singh son of Dilbagh Singh caste Jaat am a resident of Geeta Colony, City Tohana District Fatehabad. It is further stated that I and my husband had come to pay obeisance in Dhamtan Sahib Gurudwara on dated 06.06.2024 at 09:15AM. When I and my husband were standing in the line to pay obeisance then due to crowd being high there an unidentified woman stole gold chain weighing 1.5 tolas from my neck. I came to know about this twenty minutes later when I and my husband were sitting in the car after paying obeisance. Till that lot of delay had taken place. So you by finding out the gang of woman stealing chains are requested to get my gold chain recovered. Thanking You. Complainant Promilla wife of Sohan Singh son of Dilbagh Singh caste Jaat resident of Geeta Colony, City Tohana District Fatehabad. Mobile No.9779851455. SD/- Promilla Police Proceedings- Today dated 12.06.2024 complainant Promilla wife of Sohan Singh son of Dilbagh Singh caste Jaat resident of Geeta Colony, City Tohana District Fatehabad by coming to the police post produced the aforesaid complaint. From the complaint on finding offence U/s 379 IPC to have occurred so the complaint is being sent in the hands of SPO Harvinder Singh No.735 to the police station for getting a case registered. The case number be informed after being registered. I HC along with the complainant in the case am going to the spot for doing investigation. SD/- Chander Bhan HC HC Chander Bhan No.567/Jind Police Post Dhamtan Sahib 12.06.2024 at 08:04PM. Today at the police station on receiving the aforesaid complaint in the hands of SPO Harvinder Singh No.735 in the police station FIR No.0107 dated 12.06.2024 U/s 379 IPC was registered at Police Station Garhi and copies of FIR were prepared through computer which will be sent by post in the service of higher officials. Copy of Fir and case file were handed over to the SPO and was sent to the investigating officer. This case has been registered in the presence of SI Roshan Lal No.438/Jind and due to CCTNS ID of Chander Bhan HC No.567/Jind not being there in

the police station ASI Jasvir Singh No.1005 has been selected as the investigating officer.”

3. **Submissions:**

On behalf of the petitioner

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case. He further submits that initially the petitioner was not named in the FIR and later on nominated on the basis of disclosure statement suffered by co-accused namely Gurmail Kaur. He asserts that there is unexplained delay of 6 days in lodging the FIR, as the incident took place on 06.06.2024 and the present FIR was registered on 12.06.2024.

It is contended on behalf of the petitioner that she is ready and willing to join the investigation.

On behalf of respondent/State

Mr. Gurmeet Singh, AAG Haryana, appearing on advance notice accepts the same on behalf of respondent-State of Haryana. He vehemently opposes the prayer made in the present petition stating that the petitioner has been nominated as an accused on the basis of disclosure statement of co-accused namely Gurmail Kaur and half of the chain is stated to be in possession of the present petitioner, who is involved in other cases also, therefore, her custodial interrogation is required.

4. Heard learned counsel for the respective parties.

5. **Analysis and Conclusion:**

In case of criminal investigation, the normal procedure prescribed for curtailing the right to life & liberty, is that the investigating officer can arrest the accused even without warrant. The court has extraordinary power to protect an innocent person. However, this power has to be exercised by the courts with due circumspection.

As per the prosecution story, the allegation against the petitioner is that she alongwith her co-accused had snatched the gold chain from the neck of the complainant from the Gurudwara, where she had gone to pay obeisance and moreover has specifically disclosed the name of the petitioner in her disclosure statement. Half piece of the chain is stated to be in possession of the present petitioner for which this Court infer that the custodial interrogation of the petitioner is required.

This Court is sanguine of the fact that the petitioner is a habitual offender, as he is involved in seven other cases, as has been submitted by learned State counsel, which cannot be ignored and such kind of offenders needs to be taken to task.

More so, investigation is still going on in the present case. It is settled proposition of law that power exercisable under Section 438 Cr.P.C., is somewhat extraordinary in character and it is to be exercised in exceptional cases. The Supreme Court in **“State vs. Anil Sharma”; (1997) 7 SCC 187**, held as under:-

“We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconded with a favourable order under Section 438 of the code. In a case like this effective interrogation of a suspected person is of tremendous advantage in disinterring many useful informations and also material which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third-degree methods needs not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The Court has to presume that responsible police officers would conduct themselves in a responsible manner and that those entrusted with the task of disinterring offences would not conduct themselves as offenders.”

Keeping in view the afore-said facts and circumstances and nature of averments, the petitioner does not deserve the concession of anticipatory bail. Hence, the present petition is hereby, dismissed.

09.10.2024
sham

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No