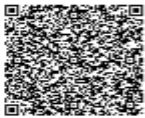


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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(119)

CRM-M-52695-2024
DECIDED ON: 22.10.2024

HUNNY
STATE OF HARYANA

VERSUS

.... PETITIONER
.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Rohit Kataria, Advocate for the petitioner.

Mr. B.S.Virk, Sr. DAG, Haryana.

SANDEEP MOUDGIL, J

1. RELIEF SOUGHT

The jurisdiction of this Court under Section 438 Cr.P.C. has been invoked seeking grant of anticipatory bail to the petitioner in case FIR No. 122, dated 22.02.2023, under Sections 379-A, 34 of the Indian Penal Code, and 1860 (for short ‘IPC’), registered at Police Station Shivaji Colony, Rohtak.

2. The contents of the FIR read as under:-

“District Rohtak Police Station: Shivaji Colony Year: 2023
FIR No. 0122 Date 22/02/2023 Time: 20:59

<u>SR. No.</u>	<u>Acts</u>	<u>Sections</u>
1.	1860 IPC	34
2.	1860 IPC	379-A

To,
The Incharge,
Police Post Janata Colony, Rohtak
Sir,

With due respect, I, Kamla Devi, wife of Mr. Manjeet Kumar, resident of 2899, near Hanuman Park, Janata Colony, Rohtak, would like to bring to your attention the following incident. Today, at around 5:00 PM, returning home from RR was school on a scooter with my friend, Sonu Malik. Sonu was driving the scooter, and I was seated behind her. When we reached the Jain Sthanakturn in the Goyal Marble Street of Janata Colony,

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Rohtak, two boys came from behind on a white Activa. The boy sitting behind snatched my gold chain (one tola) from my neck and fled away. I could not note down the scooter number, nor could I see the faces of the boys. I request legal action against these scooter riders be taken. I shall be grateful.

Sincerely,

Kamla Devi

W/O Mr. Manjeet Kumar

Near Hanuman Park, Janata Colony, Rohtak

Mobile: 9215310030, 941633747

Police Action

Today, I, ASI, along, with HC Subhash No. 769, was on patrol duty near Circular Road, Dev Vihar Colony, when Kamla Devi W/O Manjeet Kumar H.N. 2899, Near Hanuman Park, Janata Colony, Rohtak, met us and submitted a written complaint, Upon reviewing the contents of the complaint, it was found that an offense under sections 379A and 34 IPC had occurred. The written complaint is being forwarded by HC Subhash 769 for the registration of a FIR. After the registration of the FIR, the FIR number will be communicated. A special report of this case will be sent to higher officers. I, ASI, along with the complainant Kamla Devi, am proceeding to the scene of the incident for investigation.

Location: Janata Colony, Rohtak

Signed,

Ashok, ASI, Police Post, Janata Colony, Rohtak

Date: 22.02.2023, Time: 8:10 PM

Upon receipt of the written report at the police station, Case No. 122 dated 22.02.2023 under sections 379A, 34 IPC was registered and entered into the computer system. Copies of the FIR will be sent by post to the concerned higher officers. The special report of this case is being sent via email to the area magistrate, SP, and circle officer. The SHO has been informed of the situation. A copy of the police file along with the original written complaint is being sent to the investigation officer on duty. The case has been registered under the supervision of SI Ashwani, No. 82, Police Station Shivaji Colony, Rohtak”

3. **SUBMISSIONS**

ON BEHALF OF THE PETITIONER:

Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present FIR only on the basis of disclosure

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statement of co-accused alleging that the petitioner being a pillion rider had snatched the chain from the complainant's neck whereas it has been alleged by Sonu Malik, the only eye witness who was driving the scooter of the complainant that Parveen was the pillion rider who had snatched the chain which create doubt on the truthfulness of disclosure statement co-accused.

ON BEHALF OF RESPONDENT-STATE:

Learned State counsel appearing in advance accepts notice on behalf of the state and prays for dismissal of the present application wherein specific role has been attributed to the petitioner for snatching the gold chain from the neck of the complainant as a pillion rider which is yet to be recovered and for that his custodial interrogation is required. He further submits that one more case under section 307 IPC is pending against him.

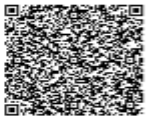
4. Heard learned counsel for the parties at length.

5. **ANALYSIS AND CONCLUSION**

Be that as it may, after considering the submissions made herein above and on perusal of the assertions made in the petition as well, this court is of the firm view that custodial interrogation of the petitioner is required particularly in view of the fact that serious overt act has been attributed to the petitioner.

Moreover, 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. In State of *Andhra Pradesh vs. Vimal Krishna Kundu*, AIR 1997 SC 3589, Apex Court has held that in case of well orchestrated conspiracy, if the accused is equipped with anticipatory bail order before interrogated by police, would greatly harm the investigation and would impede the prospects of unearthing all the ramification involved in the conspiracy.

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Similarly, in *Ram Govind Upadhyay versus Sudarshan Singh, (2002) 3 SCC 598*, it has been observed as under:

“3. Grant of bail though being a discretionary order — but, however, calls for exercise of such a discretion in a judicious manner and not as a matter of course. Order for bail bereft of any cogent reason cannot be sustained. Needless to record, however, that the grant of bail is dependent upon the contextual facts of the matter being dealt with by the court and facts, however, do always vary from case to case. While placement of the accused in the society, though may be considered but that by itself cannot be a guiding factor in the matter of grant of bail and the same should and ought always to be coupled with other circumstances warranting the grant of bail. The nature of the offence is one of the basic considerations for the grant of bail — more heinous is the crime, the greater is the chance of rejection of the bail, though, however, dependent on the factual matrix of the matter.”

6. In view of the seriousness of the allegations, the custodial interrogation of the petitioner is certainly required. Therefore, I find no merit in the petition and the same is hereby dismissed.

However, it is made clear that the observations in this order are only for the purposes of deciding this bail application and the trial Court is free to adjudicate upon the matter in accordance with law.

22.10.2024
Anjal

(SANDEEP MOUDGIL)
JUDGE

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