

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-60826-2023

Date of decision : 12.02.2024

SUMINA AND ORS

....Petitioners

Versus

STATE OF PUNJAB

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Ritesh Pandey, Advocate for the petitioners.

Mr. Vishavjit S. Virk, DAG, Punjab.

Mr. Sarabjit Singh, Advocate for the complainant.

PANKAJ JAIN, J. (ORAL)

On 04.12.2023, the following order was passed :-

“Apprehending his arrest in FIR No.285 dated 27.10.2023 registered for offence punishable under Sections 447, 427, 506, 379 IPC at P.S. Jandiala, District Amritsar Rural, the petitioner has preferred this petition under Section 438 Cr.P.C. seeking pre-arrest bail.

Inter-alia submits that dispute is between the co-sharers of the land. Thus, no offence punishable under Section 447 IPC is made out.

Notice of motion.

On asking of the Court, Mr. Tarun Aggarwal, Sr. DAG, Punjab appears and accepts notice on behalf of the respondent/State.

Mr. Sarbjit Singh, Advocate appears on behalf of the complainant.

Adjourned to 12.02.2024.

In the meantime, in the event of arrest, the petitioners shall be released on interim bail subject to their furnishing personal and surety bonds to the satisfaction of the Arresting Officer/Investigating Officer. As and when called, the petitioners shall join the investigation. They shall abide by the conditions enumerated under Section 438(2) of the Cr.P.C.”

2. Counsel for the State as well as the complainant submits that the petitioners though have joined investigation but recovery is yet to be effected.

3. In the considered opinion of this Court pre-arrest bail cannot be declined after the petitioners have joined investigation pursuant to the order passed by this Court only for the reason that the alleged articles are not being recovered from the petitioners.
4. Without commenting on the merits of the case and in view of the aforesaid fact, order dated 04.12.2023 is made absolute, subject to the conditions as enumerated under Sections 438(2) Cr.P.C.
5. This order should not be treated as "blanket" order. It will not be read granting the petitioners indefinite protection from arrest. It shall be confined to the FIR mentioned *ibid* and will not operate in respect of any other incident that involves commission of an offence.
6. This order does not in any manner limit or restrict the rights or duties of the police or investigating agency to investigate into the charges against the petitioners.
7. The petitioner shall be deemed to be in custody for the purpose of Section 27 of the Evidence Act in regard to a discovery of facts made in pursuance of information supplied by the petitioners in case the occasion arises.
8. It will be open to the police or the investigating agency to move this Court for a direction under Section 439(2) Cr.P.C. to arrest the accused, in the event of violation of any term, such as absconding, non-cooperating during investigation, evasion, intimidation or inducement to witnesses with a view to influence outcome of the investigation or trial.
9. Petition stands disposed off accordingly.

February 12, 2024
Dpr

(Pankaj Jain)
Judge

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