

2024:PHHC:013878

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

CRM-M-63778-2023 (O&M)

Date of Decision: 01.02.2024

UMESH KUMAR AND OTHERS	... PETITIONERS
VS.	
STATE OF PUNJAB	.. RESPONDENT

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present : Mr. Ashok Kumar Khunger, Advocate
for the petitioners.

Mr. M.S.Tiwana, AAG, Punjab
assisted by ASI Balbir Singh.

MAHABIR SINGH SINDHU, J.

1. 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.0126 dated 03.12.2023, under Sections 447, 427, 431, 283, 147 read with Section 149 of the Indian Penal Code, 1860, and Section 3 of the Public Property (Prevention of Damage) Act, 1985 registered at Police Station, Bahawala, District Fazilka.
2. Status report dated 01.02.2024 by way of affidavit of Sukhwinder Singh Brar, PPS, Deputy Superintendent of Police (Rural), Abohar, District Fazilka, on behalf of respondent, filed by learned State counsel, is taken on record. Copy thereof supplied to the opposite side.
3. Registry to tag the same at appropriate place.
4. Allegations are that petitioners formed an unlawful assembly; in prosecution of their common object tried to take possession of land of complainant Het Ram with the help of tractor, cultivator, car and *Kahi* and

demolished the Government property/watercourse leading to land of the complainant.

5. A Coordinate Bench of this Court, on 20.12.2023, granted interim bail to the petitioners, in the following manner:-

“Instant petition has been filed under Section 438, Cr.P.C., for grant of anticipatory bail in:-

<i>FIR No.</i>	<i>Dated</i>	<i>Police Station</i>	<i>Section(s)</i>
<i>0126</i>	<i>03.12.2023</i>	<i>Bahawala, District Fazilka.</i>	<i>447, 427, 431, 283, 147, 149, IPC, and Section 3 of Public Property (Prevention of Damage) Act, 1985.</i>

Counsel for the petitioners submits that the petitioners’ land is contiguous with that of the complainant and the allegation against the petitioners is that they have obstructed the common passage and constructed a wall. Another allegation has been levelled against them is that they have demolished the water course. By referring to order dated 15.09.2023, Annexure P-1, passed by the Civil Judge (Senior Division), Abohar, counsel submits that a civil suit is pending between the parties in which an ex parte injunction has been passed in favour of the petitioners’ tenant. He submits that petitioners are prepared to co-operate with the investigation.

Notice of motion.

On asking of the Court, Ms. Swati Batra, DAG, Punjab, accepts notice on behalf of the respondent-State.

List on 01.02.2024.

Petitioners are directed to appear before the Investigating Officer on 04.01.2024 at 10.00 A.M. at Police Station Bahawala, District Fazilka, and join the investigation and appear as and when called by the Investigating Officer. In the event of arrest, they shall be admitted to interim bail on furnishing personal and surety bonds to the satisfaction of Arresting/Investigating Officer. They shall also abide by the conditions as specified under Section 438 (2) Cr.P.C. ”

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

7. Above factual position is duly acknowledged by learned State Counsel, on instructions from ASI Balbir Singh and further stated that custodial interrogation of the petitioners is not required at this stage.

8. In view of above, interim order dated 20.12.2023 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. Also clarified that in case there is recurrence on the part of the petitioners, the State of Punjab would be at liberty to move an application for recalling of this order.

11. 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.

12. Disposed off accordingly.

13. Pending application(s), if any, shall also stand disposed off.

01.02.2024
smriti

(MAHABIR SINGH SINDHU)
JUDGE

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