



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

206

CRM-M No.56459 of 2024
Date of decision: 12.03.2025

SAHIL AND ANOTHER

.... Petitioners

Versus

STATE OF HARYANA

.... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present : Mr. Nafeesh Ahmed, Advocate for the petitioners.

Mr. Neeraj Poswal, A.A.G., Haryana.

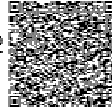
MANISHA BATRA, J. (oral)

1. The present petition has been filed by the petitioner for grant of anticipatory bail in case FIR No.51 dated 23.02.2024 registered under Section 380 of IPC (Section 457 mentioned in the impugned order), at Police Station Sadar Nuh, District Nuh.

2. Vide order dated 13.11.2024, passed by this Court, the petitioners were released on interim bail and were directed to join investigation. Order dated 13.11.2024, passed by this Court, reads as under:

“The petitioners seek grant of anticipatory bail in respect of a case registered against them vide FIR No. 51, dated 23.02.2024, Police Station Sadar Nuh, District Nuh, under Section 380 IPC (Section 457 IPC mentioned in the impugned order).

The FIR was lodged at the instance of Zafruddin wherein it is alleged that on the night intervening 20/21.02.2024 a theft was committed in his house by some unidentified persons and that



later it was found that two mobile phones, cash amounting to Rs.60,000/- and a gold necklace weighing 20 grams had been stolen.

It is further the case of prosecution that subsequently when one of the two stolen mobile phones became active, the police was able to nab one Kadir Khan who was possessing the said stolen mobile and who upon interrogation disclosed that the said mobile phone had been given to him by Sahil. It is further the case of prosecution that subsequently a secret information was received to the effect that Imdad was also associated with Sahil and others.

Learned counsel for the petitioners submits that they are nowhere named in the FIR and have been nominated subsequently on the basis of disclosure statement of co-accused which would hardly carry any evidentiary value. Leaned counsel submitted that in any case the complainant does not have any objection for grant of anticipatory bail.

At this stage, Mr. Aazam Khan, Advocate has put in appearance on behalf of the complainant and has filed power of attorney. The same is taken on record.

Learned counsel for the complainant has expressed that he does not have any objection for grant of anticipatory bail.

Notice of motion for 12.03.2025.

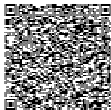
Meanwhile, in the event of arrest, the petitioners be released on interim bail subject to their furnishing personal bonds and surety bonds to the satisfaction of Arresting/Investigating



Officer. However, the petitioners shall join the investigation as and when called upon to do so and cooperate with the Arresting/Investigating Officer and shall abide by the conditions as provided under Section 438 (2) Cr.P.C.”

3. Learned State counsel has submitted that though the petitioners have joined the investigation on 08.03.2024, however they have not co-operated with the investigating agency and his custodial interrogation is required for effecting recovery of case property which consisting of cash amount of Rs.60,000/- and gold necklace. It is well settled proposition of law that the criminal law process, especially while deciding applications for bail, should not be used for coercion or recovery of money and rather it should be based on merits of the case. The decisions in bail applications should not be made on the nature of accusation, severity of potential punishment and likelihood of an accused absconding. Reference in this regard can be made in ***Dilip Singh vs. State of Madhya Pradesh and another, 2021(R) RCR (Criminal) 585*** wherein, it was observed by this Court that a criminal Court exercising jurisdiction to grant bail/anticipatory bail, is not expected to act as recovery agent to realize dues of complainant without there being any trial. Further reliance can also be made to ***Manoj Kumar Sood and Another vs. State of Jharkhand, Special Leave to Appeal (Crl.) NO.1274 of 2021 decided on 19.03.2021*** wherein, it was observed that disputed dues cannot be recovered in criminal proceedings.

4. In view of this position of law, the petitioners cannot be denied bail only because of the fact that the disputed money has not been recovered by them. In my considered opinion, no useful purpose would be served by



detaining the petitioners in custody. Hence, the present petition is allowed and order dated 13.11.2024 granting interim bail to the petitioners is made absolute, subject to compliance of terms and conditions requisite for grant of anticipatory bail.

12.03.2025

Jyoti-IV

(MANISHA BATRA)

JUDGE

Whether speaking/reasoned:

Whether reportable

:

Yes/No.

Yes/No