

CRM-M-57639-2024
Reserved on: 10.01.2025
Pronounced on: 30.01.2025

...Petitioner

...Respondent

Ms. Harpreet Kaur, AAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
110	24.03.2024	DLF Phase-I, Gurugram	457, 380 and 411 IPC

2. Per paragraph 18 of the bail application and Para 10 of reply dated 06.12.2020 the accused has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1.	171	09.05.2024	457 and 380 IPC	PS DLF Phase I, Gurugram

“3. That the facts leading to the registration of the FIR aforementioned are that a complaint was moved by the complainant Daljit Singh Grewal to the police, the contents whereof are being reproduced herein under for the kind perusal of Hon'ble Court as:

"To the SHO Police station DLF phase 1 Gurgaon 122002 REPORTING THEFT IN H 3/11, DLF PH- 1, Gurgaon Respected Sir I Brig Daljit Singh grewal S/O Lt. LT. Col Amolak Singh Grewal an residing in H 3/11, ground floor DLF phase 1, Gurgaon along with my wife daughter and son in law. Presently I am in the process of shifting to G Block. My daughter and son in law left for Chandigarh on 22 Mar 24 in the evening by train at 7.15 PM, and we went to stay in our G block house. On 23 mar 24 we myself and my wife went to H 3/11 to check the house. On entry we found the

house has been ran sacrifices and aal. Cupboard are lying open. On further checking we found that rare side window glass pane has been removed and the grill pulled out. We further saw the CCTV installed in the rare side has been covered with piece of cloth. On further checking CCTV footage we noticed that at 1.46 am on 23 march early morning the CCTV has gone blank. I immediately called the police and reported the matter. The police came in about 15/20 minute and carried out initial investigation the total loss is as under (a) Indian currency Rs-80000 -plus (b) US Dollar - 1000(85000) (c) Gold chain 1 - Approx 1 Lakh (d) Gold and Diamond earring (white gold)-1,80,000 (e)Gold and emerald ear ring 1,50,000/- (f) Gold diamond locket -40,000/- (g) Silver biscuit -35,000/ (h) Silver articales - 50,000/-(i) Swarski bracelet - 15,000/-(j) Diamond and pearl pendent with chain 1,50,000/- The total loss is approx 9 laks. It is requested that necessary FIR be lodged and investigation be carried out to nab the culprits."

4. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioner and their family.

5. The State's counsel opposes bail and refers to the reply.

6. It would be appropriate to refer to the following portions of the reply, which read as follows:

"8. That the complicity of the petitioner was spelt out by the co-accused Mangal aforementioned, who apprised that he had sold the stolen gold-silver jewelry to the petitioner, who was running a jewelry shop in Ranaghat, District Nadia, West Bengal against a consideration of Rs. 3,00,000/-. The true translated reproduction of disclosure statement of the co-accused Mangal and the call detail records of the co-accused Mangal are being appended to alongwith the present affidavit for the kind perusal of the Hon'ble Court as Annexure R1 and R2 respectively. As per the analysis of the call details, it had transpired that the co-accused Mangal was having cell number 89274, whereas the petitioner herein had been using cell number 93333 and they had been in contact repeatedly.

9. That as per the investigations, the present petitioner, who is running a jewelry shop, had purchased jewelry worth several lakhs of rupees against a meagre consideration of Rs.3 lakhs from the co-accused Mangal. Being a jeweler, the petitioner was fully aware with regards to the worth of the jewelry and despite having knowledge with regards to jewelry being a stolen property, the petitioner had purchased the same, with a view to acquire wrongful gains. His custodial interrogation is necessary to effect the recovery of the jewelry aforesaid. Further, his custodial interrogation is required with regards to ascertain the complicity of the petitioner in other criminal activities.

10. *That furthermore, it shall be apposite to mention here that the complicity of the petitioner has also been found in connection with another criminal case having arisen out of FIR 171 dated 09.05.2024 registered at PS DLF Phase-I, Gurugram for the commission of offences punishable under Sections 380, 457 IPC, in which the arrested accused has disclosed having sold the stolen articles to the petitioner.”*

7. It would be appropriate to refer the relevant paragraphs of the bail petition, which reads as follows:-

“4. *That the name of the petitioner is not mentioned in the FIR rather the name of the petitioner figured in the disclosure statement of the co- accused Mangal Vaid while being in custody of the police.*

5. *That as per the allegations accused Mangal Vaid sold the stolen items to the petitioner and therefore the police searched the shop of the petitioner but no stolen item was found in the custody of the petitioner.*

6. *That the petitioner is a registered owner/proprietor of the M/s Lokenath Jewellers and a permanent resident of the above mentioned address and has nothing to do with the present alleged occurrence or FIR.”*

8. Pre-trial incarceration should not be a replica of post-conviction sentencing. The evidence might be prima facie sufficient to launch prosecution or to frame charges, but this Court is not considering the evidence at that stage but is analyzing it for the stage of anticipatory bail. An analysis of the above does not justify custodial interrogation or pre-trial incarceration.

9. The Police did not arrest the petitioner; if they intended to arrest the petitioner, it was not impossible. A perusal of the reply does not point out the steps taken to arrest the accused.

10. Given the above, the penal provisions invoked coupled with the prima facie analysis of the nature of allegations and the other factors peculiar to this case, there would be no justifiability for custodial interrogation or the pre-trial incarceration at this stage. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner makes a case for bail. This order shall come into force from the time it is uploaded on this Court's official webpage.

11. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on anticipatory bail in the FIR captioned above subject to furnishing bonds to the satisfaction of the Arresting Officer, and if the matter is before a Court, then the concerned Court and due to unavailability before any nearest Ilqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Officer/Court must be satisfied that if the accused fails to appear, such surety can produce the accused.

12. While furnishing a personal bond, the petitioner shall mention the following personal identification details:

1.	AADHAR number	
2.	Passport number (If available) and when the attesting officer/court considers it appropriate or considers the accused a flight risk.	
3.	Mobile number (If available)	
4.	E-Mail id (If available)	

13. This order is subject to the petitioner’s complying with the following terms.

14. The petitioner is directed to join the investigation within seven days of uploading this order on the official webpage of the High Court of Punjab and Haryana and as and when called by the Investigator. The petitioner shall be in deemed custody for Section 27 of the Indian Evidence Act, 1872/ Section 23 of BSA, 2023. The petitioner shall join the investigation as and when called by the Investigating Officer or any Superior Officer and shall cooperate with the investigation at all further stages as required. In the event of failure to do so, the prosecution will be open to seeking cancellation of the bail. During the investigation, the petitioner shall not be subjected to third-degree, indecent language, inhuman treatment, etc.

15. The petitioner shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The petitioner shall not tamper with the evidence, influence, browbeat, pressurize, induce, threaten, or promise, directly or indirectly, any witnesses, Police officials, or any other person acquainted with the facts and circumstances of the case or dissuade them from disclosing such facts to the Police or the Court.

16. In case the Investigator/Officer-In-Charge of the concerned Police Station arraigns another section of any penal offense in this FIR, and if the new section prescribes a maximum sentence that is not greater than the sections mentioned above, then this bail order shall be deemed to have also been passed for the newly added section(s). However, suppose the newly inserted sections prescribe a sentence exceeding the maximum sentence prescribed in the sections mentioned above; then, in that case, the Investigator/Officer-In-Charge shall give the petitioner notice of a minimum of seven days, providing an opportunity to avail the remedies available in law.

17. ***This bail is conditional, with the primary stipulation being that if the petitioner commits any non-bailable offense, the State may submit an application for its cancellation to the Sessions Court, which will be empowered to cancel this bail.***

18. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

19. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the attesting officer wants to verify its authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.

20. **Petition allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

30.01.2025
M.Sikka

Whether speaking/reasoned: Yes
Whether reportable: No.