

IN THE COURT OF KANWALJIT SINGH BAJWA,
SESSIONS JUDGE, PATHANKOT.

PBPO010010952020



BA No.	:	83/2020
CIS BA No.	:	294/2020
CNR No.	:	PBPO010010952020
Presented on	:	04.05.2020
Registered on	:	04.05.2020
Date of Order	:	08.05.2020

1. Pooja Rani, aged 40 years daughter of Sh.Tribhawan Singh, wife of Sh.Rinku, resident of Village Dibku, Tehsil and District Pathankot at present resident of H.No.142-B, Dilbagh Nagar, Ward No.45, Jalandhar District Jalandhar.
2. Sukhvarsha, aged 33 years wife of Sh.Suraj Kondal, resident of Village Dibku, Tehsil and District Pathankot.
3. Kirti, aged 34 years wife of Sh.Gaurav Kondal, resident of Village Dibku, Tehsil and District Pathankot.

...Accused / Applicants.

Versus

State of Punjab

...

...Respondent.

FIR No.90 Dated 29.04.2020.
Under Sections 379,511,427 IPC.
Police Station Sadar Pathankot.

...

First Bail Application under Section 438 Cr.P.C

Present: Sh.Jagjit Singh Adv., counsel for the accused / applicants.
Sh.Aman Sharma, Addl. Public Prosecutor for the State.

ORDER

1. Bail matter is heard through video conferencing on Vidyo application keeping in view the situation arising due to outbreak of the Novel Coronavirus (COVID-19).

2. Accused / applicants namely Pooja Rani daughter of Sh.Tribhawan Singh wife of Sh.Rinku resident of Village Dibku, Tehsil and District Pathankot at present R/o H.No.142-B, Dilbagh Nagar, Ward No.45, Jalandhar District Jalandhar, Sukhvarsha wife of Sh.Suraj Kondal and Kirti wife of Sh.Gaurav Kondal, residents of Village Dibku, Tehsil and District Pathankot, seeks anticipatory bail under Section 438 Cr.P.C in case FIR No.90 dated 29.04.2020 registered under Sections 379,511 and 427 of IPC at Police Station Sadar Pathankot.

3. FIR in the present case has been registered on the basis of statement of complainant Anoop Singh son of Buti Ram, resident of Targarh on the allegations that he used to do agriculture work by taking the land on lease. He took the land measuring 67 Kanals 8 Marlas, situated at Village Dibku on lease under the possession of Kunti Devi and Kamal Kumar, residents of Village Bhoa for a lease period of one year w.e.f. 26.11.2019 to 25.11.2020 for a consideration of ₹ 25,000/- per killa.

He took the possession of the land on 27.11.2019 and wheat, mustard and flax seeds (Alsi) were sown in the aforesaid land. On 28.04.2020 he along with his owner Kamal Kumar Tarnaich, resident of Village Bhoa had visited their land and found that Banwari Lal, Gaurav Kondal, Suraj Kondal and Shakti Kondal sons of Tribhawan Singh, Pooja Rani daughter of Tribhawan Singh, Sukhvarsha daughter of Suraj Kondal, Kirti wife of Gaurav Kondal, Sarvesh, Tushar sons of Banwari Lal, Surjit son of Jaishi Ram and Sonu son of Tarsem, residents of Dibku were cutting his wheat crop sneakily from the land measuring about 3 Kanals bearing Khasra No.11R/20. On seeing them all the accused ran away from the spot. They called the police at the spot but they did not get recorded any statement to the police because they wanted to consult the mother of Kamal Kumar being co-sharer in the aforesaid land.

4. Record produced. Heard. It has been contended by learned counsel for the applicants that a false case has been registered against the applicants / accused. The family members of the applicants / accused are in possession of the alleged land and have sown the wheat crop in their field and now it is the time of harvesting the wheat crop, so they were cutting the crop. It has been further contended that offence under Section 379 IPC is not attracted as the applicants / accused have not committed the theft of wheat crop and the same is lying in the field. He further contended that the applicant / accused No.1 along with co-accused have

also challenged the sale deed and the case regarding the same is pending in the Court of Sh.Hem Amrit Mahi, learned Civil Judge (Junior Division), Pathankot. Moreover, civil litigation between the alleged owners of the land and co-accused is pending in the Revenue Courts. The applicants / accused are not required for any purpose of recovery or investigation as the wheat crop is still lying in the field. The applicants / accused are ready to join the investigation as and when required by the police. Accordingly, a prayer has been made to allow the applicants / accused to be released on anticipatory bail.

5. On the other hand, learned Addl. Public Prosecutor for the State has argued that the total land is measuring 146 Kanals 8 Marlas and the land has not been partitioned as yet. The applicants along with co-accused have cut the wheat crop in the absence of the complainant and as such the present applicants are not liable to be released on anticipatory bail.

6. I have considered the aforesaid contentions raised by learned counsel for the applicants as well as the learned Addl. Public Prosecutor for the State.

7. It is an admitted fact that no actual partition of the land has taken place as yet, which is still coming as a joint ownership in the

revenue record as has been submitted by the learned APP for the State. The total extent of the land is 146 Kanals 8 Marlas and the allegations against the applicants and co-accused are that they had cut 3 Kanals of wheat, but on seeing the complainant they had fled away from the spot. It is further an admitted case that the crop which was cut at the spot was not taken away by the accused. No recovery is to be effected from them. In such eventuality, the FIR has been registered only for an attempt to commit theft attracting Section 379 IPC read with Section 511 IPC and further Section 427 of IPC. Nonetheless, the land is joint between the accused and the complainant and there being a delay of one day in getting the FIR registered as well as having regard to the civil litigation pending, this Court is of the view that it is a fit case where the applicants should be directed to join investigation by affording them interim bail. Accordingly, it is ordered that the applicants shall join the investigation within ten days from today and upon their doing so, they shall be released on interim anticipatory bail, subject to the satisfaction of Arresting/ Investigating Officer as well as to the following conditions :

- (i).** that they will join investigation as and when directed by the Arresting/ Investigating Officer;
- (ii).** that they will not tamper with the prosecution evidence;
- (iii).** that they will not win over the witnesses, who are acquainted with the facts of the case; and

(iv). that they will not leave India without prior permission of the Court.

Adjourned to 02.07.2020 for ascertaining the outcome of investigation. Copy of this order be sent to the concerned SHO for compliance.

Date of Order: 08.05.2020

(Kanwaljit Singh Bajwa)
Sessions Judge
Pathankot

(Ajay Kumar)
Stenographer-1

(UID No. PB00059)

“I attest to the accuracy and authenticity of this document.”