

**IN THE COURT OF HARSIMRANJIT SINGH
ADDITIONAL SESSIONS JUDGE (UID No. PB0234),
SAS NAGAR.**

CIS No. BA-1901-2024
Date of Order: 25.06.2024

1. Surinderjit Singh Gill, aged about 53 years, son of Harminder Singh Gill.
 2. Arshjot Singh Gill, aged about 28 years, son of Surinderjit Singh Gill.
- Both residents of House No.3267, Sector-71, Mohali, SAS Nagar, Mohali.

.....Petitioner.

Versus

State of Punjab.

.....Respondent.

FIR No.146 dated 07.05.2024
Under Sections: 379, 447, 506, 427, 148, 149 of IPC
Police Station: City Kharar, District SAS Nagar.

Bail Application Under Section 438 of Cr.P.C.

Present: Sh. Iqbal Singh, Advocate Counsel for the petitioners.
Sh. Ravinder Singh, Ld. Additional P.P. for the State assisted by ASI Daulat Singh.
Sh. Rabindra Pandit, Advocate counsel for the complainant.

ORDER:-

1. **Bail application put up before me during summer vacations being Vacation Judge on Duty.** This order of mine shall dispose of bail application filed by the petitioners seeking anticipatory bail, arising out of above said FIR.
2. Notice of bail application was given to the State, pursuant to

which, learned Additional Public Prosecutor put in appearance. ASI Daulat Singh had produced the record of investigation. Sh. Rabindra Pandit, Advocate has filed power of attorney on behalf of the complainant and has contested the bail application.

3. Succinctly stated, the present FIR was registered consequent to the statement of complainant Kulwinder Kaur, in which she has stated before the police that she is proprietor of M/s Nation Wide Infra Company, having its office at SCO No.413, Second Floor, Khanpur, Kharar. On 26.10.2022, she has entered into an agreement with M/s Tedre Realcon India Pvt. Ltd. Company, who is having its office at D-64, Defence Colony, New Delhi. However, she has entered into agreement with their legal representative/employee namely Manish Singhal. She has constructed four shops in the said area. On 26.10.2022, complainant got executed sale deed qua (total land measuring 1389.649 Sq.ft) in her favour in the office of Sub-Registrar, Kharar, in presence of witnesses Gurinderpal Singh Nambardar and Jatinder Singh son of Gurnam Singh for total sale consideration of Rs.49 Lacs, which was paid by her through different cheques. It was alleged by the complainant that the aforesaid company has authorised her to use the 530 Sq.ft of extra land for her personal work. It was further stated by the complainant that in the month of October, 2023 she along with her husband has started construction over the said land. In the month of April, 2024 accused persons forcibly barged into her land and dismantled the construction and also committed theft of bricks and iron bars. Complainant entreated that accused persons has

nothing to do with her land and they are harassing her without any reason and rhyme. Accused persons also threatened the complainant and her family with dire consequences. On the basis of aforesaid statement of the complainant, present FIR was registered against the accused persons. Now apprehending their arrest, petitioners Surinderjit Singh Gill and Arshjot Singh Gill have filed the present anticipatory bail application.

4. Learned counsel for petitioners has argued that petitioners are innocent. It has been argued that complainant is illegally and forcibly claiming 530 Sq.ft area adjoining to the shops constructed by her. It has been argued with vehemence that petitioners never interfered into the 30 X 46.3 ft area owned and possessed by the complainant. It has been contended that petitioners have raised objection regarding illegal and forcible occupying the excess area by the complainant and due to this reason, she has grudge with the petitioners and has got registered false FIR. It has been fervently argued that no notice under Section 41-A of the CrPC has ever been issued by the IO to the petitioners and moreover, custodial interrogation of the petitioners is not required and they are ready to join the investigation. With these submissions, it is implored that petitioners are entitled to grant of anticipatory bail.

5. Per contra, learned Addl. PP for State strenuously argued that serious offences of criminal trespass and theft have been committed by the petitioners along with other unknown co-accused. Ld. Addl.PP for the State has argued that some of the unknown co-accused, have threatened the complainant and her family with dire consequences and they are yet to

be arrested and thus, custodial interrogation of the petitioners is imperative. Ld. Counsel for the complainant has also argued that petitioners are habitual offenders who are neither sellers nor buyers nor immediate neighbours of the property in dispute and have no concern or connection with the property in dispute. Infact, they have a chequered past and want to grab the property of the complainant. It is vehemently urged that petitioners tried to take illegal possession of the land of the complainant and therefore, no ground is made to grant of anticipatory bail and same is liable to be dismissed.

6. I have heard the Learned counsel for the petitioner and Learned Addl.PP for the State and have gone through the record.

7. At the very outset, it seems that predominantly the present dispute has arisen on account of the fact that the complainant has been claiming her right over 530 Sq.ft area adjoining to the shops constructed by the complainant over the land purchased by her, by virtue of registered sale deed. Admittedly, only offence under Section 379 IPC is non-bailable in nature, whereas other offences are bailable in nature. It is yet debatable issue as to whether Section 379 of IPC regarding theft of bricks and iron bars is made out or not. The said moot issue can only be decided during the trial after the parties will adduce their respective evidence.

8. Added thereto, the court is of the considered view that nothing substantial is to be recovered from the petitioners. So, no useful purpose would be served by sending them behind the bars, as their custodial interrogation is not required. The allegations and averments of

the complainant are primarily based on the documentary evidence. Therefore, under these facts and circumstances, it would be suffice for the purpose of investigation if present petitioners are directed to join the investigation.

9. Therefore, petitioners are directed to surrender before the IO/arresting officer and join the investigation on or **before 03.07.2024** and in the event of their arrest, they shall be released on **interim bail** to the satisfaction of the Investigating Officer/Arresting Officer and subject to the following terms and conditions:-

- 1) They shall join the investigation as and when called by IO.
- 2) They will not tamper with the prosecution evidence.
- 3) They shall not leave the country without prior permission of the court.

10. To come up on 03.07.2024 for awaiting compliance report.
Record of investigation be again produced on the said date.

11. File be put up before the Learned District and Sessions Judge, SAS Nagar, Mohali for entrustment purposes on **03.07.2024**.

Date of Order: 25.06.2024
(Ashana-JW)

(Harsimranjit Singh)
Additional Sessions Judge,
SAS Nagar (Mohali)
UID No. PB-0234

