

**IN THE COURT OF SH. DEVINDER KUMAR GUPTA,
ADDITIONAL SESSIONS JUDGE, SAS NAGAR (UID NO.
PB00520)**

Bail application No. 198 of 07.08.2020
Filing ID no. 1433 of 2020
CNR No. PBSA01-004292-2020
Date of Order:21.08.2020

Ravinder Kaur and others Vs. State of Punjab

FIR No. 69 dated 04.08.2020
under Sections: 380, 455, 218, 166, 193, 120-B IPC
P.S. City Kurali, District S.A.S. Nagar, (Mohali).

Bail Application under Section 438 Cr.P.C.

Present: Sh. H.S. Diwana, Advocate, counsel for the accused/
applicants.
Sh. S.S. Sahota, Addl. PP for the State assisted by Sh. N.S
Chitamali, Advocate counsel for the complainant.

ORDER:-

1. Learned Addl. PP for the State as well as Sh. N.S Chitamali, Advocate has also put appearance on behalf of the complainant. Record of investigation received.
2. I have heard the learned Counsel for accused/applicant, learned Addl. PP for the State, and learned counsel for the complainant and also perused the record.
3. As per prosecution case, the present FIR was registered on the complaint of Narinder Kaur wife of Late Satwinder Singh wherein she alleged that she is resident of House No.350, Ward No.1 Kurali, City Kurali and is a widow lady. Accused Sukhwant Singh is her brother-in law, Ravinder Kaur is her sister-in-law and Kamalpreet Singh is her nephew. Complainant further alleged that she is owner in possession of

House No.350, Ward No.1, Kurali, Tehsil Kharar, SAS Nagar, (Mohali) and the abovesaid persons wants to grab her abovesaid house. On 18.09.2019 at about 11 AM, the nephew of complainant namely Diljit Singh was present alone in the said house, then accused Ravinder Kaur, Kamalpreet Singh alongwith two unidentified persons with muffled faces entered in the said house forcibly. Accused Ravinder Kaur and Kamalpreet Singh gave 3-4 slaps on the face of Diljit Singh and they also thrown Diljit Singh from the house forcibly. Diljit Singh made a phone call to the wife of her nephew namely Sukhwinder Kaur. Then Sukhwinder Kaur and her nephew namely Mandeep Singh reached at the spot and on seeing them, both the unidentified persons fled away from the spot. Thereafter, Ravinder Kaur and Kamalpreet Singh entered into the house and started preparing movie on phone while bolting the room from inside. They also told the Ravinder Kaur and Kamalpreet Singh to came out from the said house and Sukhwinder Kaur also started making their video on her phone. Thereafter, Ravinder Kaur called four persons at the spot by making a phone call. Out of them, three were in police uniform and one was in civil dress. One of the police person gave threats to Sukhwinder Kaur that he will call the lady police who will picked her. Then Sukhwinder Kaur gave a phone call to the complainant and asked the said persons to talk with the complainant. But they refused to talk with the complainant. Thereafter, the person who was in civil dress picked the phone from Sukhwinder Kaur and talked to the complainant by introducing himself as ASI Gurnam Singh and called her in the police

station in the evening. Thereafter, Sukhwinder Kaur locked the house. The police officials also told Sukhwinder Kaur to come at police station in the night along with her husband. At about 7:30 PM, when son of complainant, her nephew, Sukhwinder Kaur and Diljit Singh reached the house of the complainant, they saw that Ravinder Kaur, Kamalpreet Singh alongwith 2-3 ladies and 3-4 persons were already sitting there after breaking the lock. Complainant alongwith his relatives approached the police to lodge the complaint and also requested ASI Gurnam Singh to remove the illegal occupants from her house and to take legal action against them. Complainant also showed the copy of stay order dated 09.05.2017 which was granted in her favour by Tehsildar to ASI Gurnam Singh but he proclaimed that he had no respect for any stay order and he also told that Ravinder Kaur is the owner of the house hence, he allowed her to enter in the said house. ASI Gurnam Singh also told his officials to call the lady police and to arrest the nephew (Bhanja) of the complainant and his wife, but thereafter, the said person were allowed to go as the complainant takes their responsibility. Complainant further alleged that that earlier on 03.09.2019, ASI Gurnam Singh alongwith Sukhwant Singh, Ravinder Kaur, Kamalpreet Singh etc also illegally entered into the said house of the complainant and tried to take the forcible possession of the house of the complainant. They also caused damaged to the articles lying in the house as well as ornaments and cash. Thereafter, Nephew of the complainant made an application to SHO, Kurali, but he did not receive the same. Thereafter, complainant make a complaint to SSP, Mohali and

the office of SSP, Mohali vide receipt complaint no.3995/P/SSP dated 19.09.2019 advised the complainant to approach the SHO Kurali. The complainant approached the SHO Kurali, but the police did not take any action, rather the SHO Police Station Kurali got lodged a false case against her nephew. ASI Gurnam Singh restrained the complainant to move towards House No.350 and said that he can do anything as all the police is in his hands. ASI Gurnam Singh gave threats of life to the complainant.

Accordingly, inquiry was conducted and on the basis of the said enquiry present case has been registered against accused Sukhwant Singh, Ravinder Kaur, Kamalpreet Singh (bail applicants) and ASI Gurnam Singh.

4. The learned counsel for accused/applicant argued that accused/applicants are quite innocent and have been falsely implicated in the above noted case by the police. He further argued that accused/applicant no.1 is a homely lady while accused/applicant no.3 is son of the accused/applicants no.1 and 2 and is aged about 17 years. He further argued that the complainant who is widow of real brother of accused/applicant no.2 has got registered the present false case against the accused/applicants due to dispute regarding property left by Captain Karnail Singh, father of accused/applicant no. 2. He further argued that infact, Captain Karnail Singh (since deceased) father of accused/applicant no.2 has got executed a registered Will dated 21.12.2012 in favour of accused/applicant no.2 and mutation has already been sanctioned in his favour on the basis of said registered Will. He further

argued that the complainant has no right in property of deceased Captain Karnail Singh as she has already received her due share and the said fact has been admitted by her in the Court of SDM, Kharar. He further argued that the dispute if any, is entirely civil in nature and the accused/applicants has not committed any theft as alleged and never tress-pass in the disputed property. He further argued that there is an inordinate and unexplained delay of more than 6 months in the registration of the FIR. He further argued that from the bare perusal of the FIR no offence much less than the offence punishable under Sections 380/455 IPC is made out against the accused/applicants. He further argued that allegations as contained in the FIR are totally vague and general in nature and no detail of the alleged articles allegedly to be stolen by the accused/applicant no.2 is mentioned in the FIR. He further argued that there is no document on record regarding the ownership of the house in question in the name of the complainant. He further argued that an FIR No.86 dated 17.09.2019 under Sections 448/506 IPC has also been registered on the statement of accused/applicant no.2 Sukhwant Singh against nephew of the complainant namely Mandeep Singh regarding taking of illegal possession of the house in question. He further argued that the said Mandeep Singh had filed an inquiry application in the above said FIR before SSP SAS Nagar Mohali which was inquired by DSP SAS Nagar, Mohali vide inquiry no.43/5C/SP/PBI dated 07.01.2020, wherein the facts mentioned in the FIR No.86 were found to be true and correct and the enquiry officer had recommended presentation of challan against Mandeep Singh and the present FIR has been registered as a counter blast to the FIR No.86 got registered by

accused/applicant no.2 Sukhwant Singh against the nephew of the complainant. He further argued that nothing is to be recovered from the possession of the accused/applicants and as such, their custodial interrogation is not required. Moreover, the accused/ applicants are ready to join the investigation as and when so directed. So, they be released on anticipatory bail.

5. On the other hand, learned Addl. PP for the state assisted by the learned counsel for the complainant have vehemently opposed the bail application on the ground of seriousness of offence. They further submitted that custodial interrogation of accused/applicants is required to unravel truth and for recovery as such, the accused/applicants are not entitled for the concession of anticipatory bail.

6. After giving thoughtful considerations to the rival contentions and going through the record of the case, this Court is of the considered view that it is a fit case for grant of interim bail to the accused/applicants at this stage. From the facts discussed above, it is transpired that the accused/applicants are the close relatives of the complainant and as per prosecution allegations, they have tried to take the forcible possession of the house in question from the complainant. There has already been criminal, civil as well as revenue litigation between the parties regarding the properties left by deceased Karnail Singh. Furthermore, an FIR No. 86 dated 17.09.2019 under Sections 448/506 IPC has also been registered on the statement of accused/applicant Sukhwant Singh against nephew of the complainant namely Mandeep Singh regarding

taking of illegal possession of the house in question and in the said FIR, the enquiry officer had already recommended presentation of challan against Mandeep Singh. There are allegations and counter allegations levelled by complainant and accused/applicants against each other, which are to be decided at the time of trial. The accused/applicant no.1 is a homely woman while accused/applicant no.3 is a student aged 17 years. Hence, without delving further on the merits of the case, it is deemed appropriate and in the interest of justice to grant relief of interim bail to the accused/applicants at this stage. Accordingly, the accused/applicants are directed to surrender before the Investigating Officer and shall join investigation before the next date of hearing and in that eventuality they shall be released on interim bail to the satisfaction of Investigating Officer/ concerned SHO subject to the following terms and conditions:-

1. That the applicants shall join the investigation as and when called by the investigating agency;
2. That the applicants shall not tamper with the prosecution evidence.
3. That the applicants shall not leave the country without prior permission of the Court.

The IO is directed to join the accused/applicants in investigation by maintaining the social distancing and by following all the precautions mentioned for prevention of Corona Virus/Covid-19. Now to come up on 31.8.2020 for further proceedings.

Pronounced:

Dated:21.08.2020

(Devinder Kumar Gupta)
Additional Sessions Judge,
SAS Nagar, Mohali.
(UID No. PB00520)

*Bhupinder Singh