

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM No.M-13330 of 2015
Date of decision : May 21, 2015

Sanjeev Kumar Bhatia and another

...Petitioners...

versus

State of Punjab

...Respondent...

CORAM : HON'BLE MR. JUSTICE JASPAL SINGH

Present : Mr. Vishal Sharma, Advocate,
for the petitioners.

Mr. J.S. Sekhon, AAG, Punjab.

JASPAL SINGH, J. (Oral)

This is a petition under Section 438 of the Code of Criminal Procedure preferred by Sanjeev Kumar Bhatia and Kishan Kumar Bhatia-petitioners, seeking pre-arrest bail, in case bearing FIR No. 5, dated 04.02.2014, under Sections 420, 120-B IPC, registered at Police Station Moti Nagar, Ludhiana.

While issuing notice of motion on April 27, 2015, following order was passed:-

“Learned counsel for the petitioner inter alia contends that though a petition under Section 438 of the Code of Criminal Procedure (for short, 'Code') was moved to the Court of Sessions

Judge, Ludhiana, which was entrusted to the Court of Mr. S.P. Sood, Additional Sessions Judge, Ludhiana, for disposal and said petition was put up before Id. Additional Sessions Judge, Ludhiana on February 10, 2014. Though, notice of the said petition was issued to State but no interim relief was granted. For the last more than one year, said petition is pending and same has been adjourned for more than 20 times, just on the ground that police record has not been received. Now, said petition is stated to be pending in the month of May, 2015. No reason has been assigned for adjourning the petition time and again and there is nothing on record to show that why record is not being produced by investigating agency/prosecution.

Notice of motion to the respondent for 12.05.2015.

On the asking of the Court, Mr. J.S. Sekhon, AAG, Punjab accepts notice on behalf of the respondent-State. Copy of the paper book has been given to learned State counsel.

The Commissioner of Police, Ludhiana is directed to look into the matter and get an inquiry conducted against concerned official(s) as to why record has not so far been produced and to take appropriate action against delinquent official(s) and furnish status report on or before the date fixed.

In the meanwhile, petitioner is directed to join the investigation on 04.05.2015 at 11:00 A.M.. In the event of arrest, petitioner shall be released on pre-arrest bail at the satisfaction of the Arresting Officer/Investigating Officer subject to the following

conditions, as envisaged under section 438(2) Cr.P.C:

- (i) that the petitioner shall make himself available for interrogation by a police officer as and when required;*
- (ii) that the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;*
- (iii) that the petitioner shall not leave India without the previous permission of the Court.*

Now, status report by way of affidavit of Mr. Promod Ban, IPS, Commissioner of Police, Ludhiana, in compliance of order dated April 27, 2015 of this Court has been received.

Accordingly, petition is disposed of with the direction to Id. trial court to dispose of the petition pending before it for pre-arrest bail, preferred by Sanjeev Kumar Bhatia and Krishan Lal Bhatia-petitioners. The said petition is stated to be fixed for 25.05.2015 Judge, Special Court, Ludhiana and Inspector Gurtej Singh, SHO Moti Nagar, Ludhiana, present in Court, is directed to make it convenient to produce the complete record before the Id. trial court on the date fixed. Trial court is also directed to dispose of the matter on priority basis as per its convenience. However, since inquiry has already been initiated by ACP, East, Ludhiana as per directions given by Commissioner of Police, Ludhiana, this matter be listed for hearing on July 20, 2015 for awaiting report.

It is, however, clarified that till the disposal of petition pending before Id. trial court, order dated April 27, 2015 passed by this Court, shall enure.

May 21, 2015
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(JASPAL SINGH)
JUDGE