

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-13578-2015 (O&M)
Date of decision: July 06, 2015

Avtar Singh @ Tari

.... Petitioner...

Versus

State of Punjab

.... Respondent...

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. A.S. Kalra, Advocate,
for the petitioner.

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

Jaspal Singh, J.

CRM No. 19851 of 2015

Heard.

Applicant-petitioner is allowed to take the pleas during the course of arguments mentioned at para Nos. 9A to 9D in the application as well as to refer documents accompanying the application.

CRM stands disposed of.

Main case

Notice of motion.

2. At the asking of Court, Mr. J.S. Sekhon, AAG, Punjab, who is present in Court has accepted notice on behalf of respondents-State. Copy of the paper book has been supplied to learned State counsel.

3. Instant petition has been preferred by Avtar Singh @ Tari under Section 438 of the Code of Criminal Procedure (for short, "Code"),

seeking pre-arrest bail, feeling apprehension of his arrest, in case FIR No.8, dated 20.02.2015, under Sections 406, 420, 120-B IPC and Section 8 of Prevention of Corruption Act, Police Station Sanaur Patiala, District Patiala.

4. Briefly stated, case of prosecution is that Hardeep Singh son of Hazara Singh r/o Ward No.5, Patran, District, Patiala had purchased land measuring 33 acres located at village Lehal Kalan, District Sangrur on October 27, 2010 and was handed over the possession thereof. Subsequent thereto, it transpired that there was a serious dispute regarding the land and vendor thereof took back possession. He took up the matter to Jasbir Singh, who further approached Jagdish Singh r/o village Chogawa, District Karnal then Jagdish Singh disclosed that Avtar Singh @ Tari-petitioner is known to higher officials and assured that both of them i.e. Jagdish Singh and Avtar Singh would extend help in restoring the possession of land and getting sale deed executed but for that purpose they have to part with a sum of ₹20 lacs. On June 01, 2012, Hardeep Singh-complainant paid a sum of ₹20 lakhs in the presence of Jasbir Singh, Sukhbir Singh and Gurbachan Singh at village Khuda at the house of Avtar Singh @ Tari. Jagdish Singh and Avtar Singh assured Hardeep Singh to get the needful done shortly but thereafter, neither they get the needful done nor returned the amount, rather, they extending threats to his life.

5. Contention of learned counsel for petitioner is that petitioner has been falsely implicated in the instant case. Petitioner neither agreed to get possession restored or to get sale deed executed in favour of complainant

nor he ever received even a single penny from complainant. Moreover, there is a joint affidavit of Jasbir Singh and Sukhbir Singh, who are alleged to have been acted as mediator, specifically stating that no money was ever passed by Hardeep Singh-complainant to petitioner-Avtar Singh @ Tari and co-accused Jagdish Singh in their presence. It has further been stated by them that they have no knowledge about the land dispute of complainant-Hardeep Singh. They have also denied their relationship with complainant-Hardeep Singh. Moreover, petitioner is an ordinary agriculturist and is neither financially well-off nor influential in the area. He is a simple and rustic villager.

6. It has further been submitted by learned counsel for petitioner that in fact, petitioner is an old police informer and used to work for State under the patronage of State Police Officers, in order to provide specific information regarding anti-social elements of Punjab State and in order to conceal his identity and various secret jobs assigned to him from time to time, the police had to show him as accused in FIRs for sending him to jail, to collect useful information from anti-social elements indulging in terrorist activities etc. so, that he could extract some secret facts from his co-accused in jail. 16 FIRs were registered only due to the aforesaid reason. In the instant case, petitioner undertakes to join the investigation and to comply with all the conditions, imposed by this Court, in case, he is granted concession of pre-arrest bail.

7. On the other hand learned State counsel has vehemently opposed bail petition contending that there are serious and specific allegation that he extracted a sum of ₹20 lakhs from complainant-Hardeep

Singh, on the pretext of getting sale deed executed in his favour as well as to get possession back to him. Moreover, registration of 16 FIRs against petitioner is also suggestive of the fact that he is an habitual criminal and such a person does not deserve the concession of bail.

8. This Court has given an anxious thought to the aforesaid submissions made by learned counsel for the parties and has perused the record.

9. Instant petition has been moved under Section 438 of the Code seeking pre-arrest bail. It is well settled that discretion envisaged under Section 438 of the Code is to be exercised sparingly that too where allegation levelled, appears to be false or groundless. But taking into consideration the facts and circumstances of the case as well as allegations, no such opinion can be expressed at this stage.

10. It is an admitted fact that 16 FIRs have been registered against petitioner under various provisions of IPC at different times and places. At this stage, there is nothing on record to suggest that those FIRs were friendly in nature, just to send him in jail for extracting information from the persons indulging in terrorists activities. If the plea taken by learned counsel petitioner, in this regard, is taken to be true for the sake of arguments then it can be said that petitioner was having good relations with police. Since, there are specific allegations that petitioner received a sum of ₹20 lakhs from complainant-Hardeep Singh and has failed to return the same, only custodial interrogation could bring the real facts of the case. This Court is of the considered view that in the absence of custodial interrogation of petitioner, investigation of this case is likely to be

stultified.

11. Thus, this Court does not find any merit in the instant petition. As such, same is dismissed.

July 06, 2015

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**(JASPAL SINGH)
JUDGE**