

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM No. M-21620 of 2015 (O&M)
Date of Decision: 07.07.2015

Gurminder Singh

--Petitioner

Versus

State of Punjab & others

--Respondents

CORAM:-HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. S.S. Swaich, Advocate for the petitioner.

TEJINDER SINGH DHINDSA.J

The instant petition has been filed under Section 439(2) Cr.P.C praying for setting aside of an order dated 16.5.2015, passed by the learned Additional Sessions Judge, Fatehgarh Sahib under section 438 Cr.P.C, whereby the concession of pre-arrest bail was granted to the private respondents herein in case F.I.R No.30 dated 9.4.2015 under sections 380, 454 I.P.C registered at Police Station Khamanon, District Fatehgarh Sahib.

The sole submission advanced by learned counsel appearing for the petitioner is that the aspect with regard to the stolen property i.e. furniture/iron chairs has not been dealt with by the court below while granting the concession of anticipatory bail. Counsel would even advert to the impugned order dated 16.5.2015 placed on record at Annexure P-3 and which would reveal that ASI Kewal Singh had suffered a statement that even though, the accused/present petitioners had joined investigation but they have not handed over the stolen property.

Having heard learned counsel for the petitioner at length and having perused the case paper book, I am of the considered view that no basis for cancellation of bail and for setting aside the impugned order dated 16.5.2015, is made out.

Prior to passing of the final order dated 16.5.2015 (Annexure P-3) which has been impugned in the present petition, an order dated 24.4.2015 was passed by the Additional Sessions Judge, Fatehgarh Sahib granting the ad interim protection to the private respondents/accused. Perusal thereof would reveal that the complainant Gurminder Singh Grewal had approached the police authorities with a grievance that he is co-owner of Lilly Palace situated at G.T. Road and such palace had been given on lease to Rajiv Kumar i.e. one of the accused. It was further alleged that since Rajiv Kumar was not settling the accounts in a proper fashion, accordingly, the management of the palace had been taken over by the complainant in his own hands and one Jasvir Singh and Ajwant Singh had been appointed as Manager and Assistant Manager. Further categorical allegation was that on 7.4.2015 the accused/private respondents herein had removed certain items/furniture/iron chairs from the premises of the palace and upon the complainant reaching the spot, they ran away.

During the course of arguments today, it has gone undisputed that prior to registration of the F.I.R, Rajiv Kumar one of the accused had instituted a suit for permanent injunction restraining the complainant as also one Anil Kumar son of Gian Chand from dispossessing the complainant from the suit property. Such suit was taken up by the court of Civil Judge (Sr. Divn.), Fatehgarh Sahib and on 4.4.2015 the following injunction order had been passed:-

“Suit received by entrustment. Report of reader seen. Court fee is correct. It be registered. Alongwith the plaint, the plaintiff has also filed an application under Order 39 Rules 1 and 2 CPC for grant of temporary injunction.

Ld. counsel has prayed for exparte injunction restraining the defendant, his servants and agents from

dispossessing the plaintiff from the suit property. Heard. I have perused the documents placed on record. Averments in the plaint are duly corroborated by registered lease deeds dated 10.12.2013 and 28.12.2007. Perusal of these lease deeds prima facie shows that suit property has been given on lease by the defendants to the plaintiff. Clearly as the period of lease has not expired yet dispossessing the plaintiff from the suit property by forceful illegal means would defeat the purpose of the present suit. Accordingly, the defendant and his agents are restrained from ousting/dispossessing the plaintiff from the suit property illegally, forcibly and without following due process of law till further orders.

Let notice of the suit and application be issued to the defendants for 13.04.2015 thereby calling upon them to show cause as to why the ex parte order of stay granted today in favour of the plaintiff be not made absolute. This order of ex parte stay is, however, subject to the condition that the plaintiff shall take dasti summons and get the defendants served for the date fixed positively failing which the ex parte order of stay shall stand vacated automatically. Compliance of Order 39 Rule 3 CPC be made immediately.”

Under such circumstances, whereby civil proceedings pertaining to the palace in question and which was concededly on lease with one of the accused party, stood initiated and coupled with the fact that the accused have already joined investigation, there would be no occasion for interfering with the view taken by the court below granting to them the concession of anticipatory bail.

No merit, petition dismissed.

(TEJINDER SINGH DHINDSA)
JUDGE

07.07.2015

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