

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM No.M-43073 of 2014 (O&M)
Date of Decision: 13.03.2015

Sunil Kumar

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR.JUSTICE R.P. NAGRATH

1. *Whether Reporters of the local papers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the digest?*

Present: Mr. N.S. Sidhu, Advocate
for the petitioner.

Mr. Gurveer Sidhu, DAG, Punjab
for the State.

Mr. Onkar Singh Batalvi, Advocate
for the complainant.

R.P. Nagrath, J.

This petition has been filed under Section 438 Cr.P.C. for grant of anticipatory bail in FIR No.55 dated 17.05.2014, registered under Section 436 IPC at Police Station Mukherian, District Hoshiarpur.

The FIR was recorded on the statement of complainant Munish Mahajan who went home as per routine after closing his medical store on 06.05.2014 at about 9.00 pm. On 07.05.2014 at about 4.00 am his friend Gorav Minhas @ Billa came to him and

wanted some medicines to be purchased. The complainant and Gorav aforesaid went to medical store where the complainant reached at 4.30 am and saw fire near the shutter of the medical store and smoke was coming out from the store. He saw the petitioner sitting near the shop who fled away from the spot on seeing the complainant. The complainant also saw a bag lying in the store containing kerosene oil and large amount of fire near the plyboard.

Learned counsel for the petitioner vehemently contended that petitioner was an employee of the complainant and working as his helper. The petitioner left the job of complainant a few days ago. It was also contended that petitioner has been falsely implicated on vague allegations and has been made scape-goat because of the political influence of the complainant who was having an evil eye on the wife of petitioner. Learned counsel further contended that a criminal complaint No.30 was instituted by the wife of petitioner on 10.06.2014 and learned SDJM, Mukherian has found sufficient grounds for proceeding against the complainant for offences under Sections 354, 452 IPC after recording preliminary evidence. The summoning order is dated 18.02.2015 according to the learned counsel. It was also contended that there is huge delay in lodging the FIR and the entire story has been concocted. Learned counsel referred to the newspaper item Annexure P-2 dated 08.05.2014 on the basis of information from the father of the complainant that the fire incident had taken place because of the business rivalry and this report does not remotely reveal involvement of petitioner in the said

incident.

I have heard learned counsel for the petitioner and learned State counsel assisted by Mr. Batalvi, learned counsel for the complainant.

The filing of criminal complaint in the month of June, 2014 is after the registration of the present FIR and, therefore, could be a strategy for the pressure tactics. The summoning order dated 18.02.2015 has been issued by the Magistrate, but the matter is yet to be contested by the complainant.

Section 436 IPC is a very serious offence which has to be thoroughly investigated and merely on the basis of certain unfounded allegations, there should not be any hindrance in the fair investigation of such a serious offence. Section 436 IPC reads as under:-

“436. Mischief by fire or explosive substance with intent to destroy house, etc.—Whoever commits mischief by fire or any explosive substance, intending to cause, or knowing it to be likely that he will thereby cause, the destruction of any building which is ordinarily used as a place of worship or as a human dwelling or as a place for the custody of property, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.”

Even no authenticity at this stage can be attached to the

newspaper report and the delay, if any, in lodging the FIR is a matter relevant during trial of the case. Even if no person is named in the FIR, still if some name crops up in the investigation, the investigating agency should be given free hand for properly investigating such a serious crime to bring the matter to a logical end.

The nature of the incident putting the medical store on fire which seems to have been saved by timely arrival of the complainant, is a very serious matter.

No ground for pre-arrest bail is made out.

Dismissed.

13.03.2015
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(R.P. Nagrath)
Judge