

***IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH***

CRM No.M-11906 of 2016 (O&M)

Date of Decision : 21.04.2016

Kamal Khan

... Petitioner

Versus

State of Haryana

... Respondent

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

Present:- Mr. Diwan S. Adlakha, Advocate for the petitioner.

Mr. Vivek Saini, DAG, Haryana.

Mr. Rakesh Nehra, Advocate for the complainant.

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TEJINDER SINGH DHINDSA.J.

The present petition has been filed under Section 438 Cr.P.C. seeking the concession of anticipatory bail to the petitioner in case FIR No.147 dated 24.12.2015, under Sections 379/447/427/506/34 IPC, registered at Police Station Jathlana, District Yamuna Nagar.

Counsel for the parties have been heard at length.

FIR came to be registered on the statement of Lakhan Lal. Allegations in a nutshell against the petitioner are with regard to having entered into unlawful possession and harvest/stealing of crop pertaining to a parcel of land admeasuring 20 kanals comprised in Khasra No.18//14, 15/1, 18//15/2, 19/11/1, situated at Village Naharpur, Tehsil Jagadhri, District Yamuna Nagar.

The case made out on behalf of the petitioner is that he had entered into possession of the land in question in pursuance to an agreement entered into with one Netar Parkash Mehta dated 12.12.2014 and placed on record at Annexure P-5. It is also the contention raised by the counsel that

the present FIR is a mere counter-blast to FIR No.103 dated 11.09.2015 under Section 148/149/506 IPC that had been got lodged against the complainant Lakhan Lal and at the instance of the present petitioner.

Having heard counsel for the parties at length and having perused the paper book, this Court is not inclined to extend to the petitioner the concession of pre-arrest bail.

It has gone uncontroverted during the course of arguments that complainant Lakhan Lal had initiated civil proceedings against Netar Parkash Mehta claiming ownership in respect of the same very parcel of land measuring 20 kanals. Suit was decreed in favour of the complainant Lakhan Lal. First appeal preferred by Netar Parkash Mehta was dismissed by the Ist Appellate Court.

Undoubtedly, RSA No.3749 of 2008 was preferred by Netar Parkash Mehta before this Court and which at present is admitted and is pending final adjudication. In such RSA, execution of the decree was stayed. It stands conceded that on 17.02.2014, this Court in the Regular Second Appeal had directed the parties to maintain status quo. Needless to observe that the status quo order bound down Netar Parkash Mehta as also Lakhan Lal.

Perusal of the agreement dated 12.12.2014 at Annexure P-5 would show that an agreement to sell in respect of the same very parcel of land in question has been entered into between Netar Parkash Mehta and the present petitioner. This very agreement contains a recital that the land in question is free from all kinds of encumbrances and there is no stay or dispute of the land, even though, a case is pending in the Hon'ble High Court.

From the above, it would be clear that even though the petitioner was aware about the pendency of the regular second appeal as also the status quo order having been passed on 17.02.2014 yet possession was sought to be taken of the land in question from Netar Parkash Mehta on the strength of an agreement to sell entered into 10 months later in point of time and during the subsistence of status quo order. This Court has also been apprised that after registration of the FIR No.103 dated 11.09.2015, a contempt petition i.e. COCP No.2526 of 2015 has been preferred by the complainant, namely, Lakhan Lal and in which notices have been issued against Netar Parkash Mehta, present petitioner as also the concerned police officials and such contempt petition is now pending for 22.07.2016.

The conduct of the present petitioner is indicative of an attempt having been made to circumvent the interim order passed by this Court and to secure possession of land in collusion and in connivance with one Netar Parkash Mehta.

In the light of such circumstances, this Court is of the considered view that the petitioner has dis-entitled himself from claiming the concession of anticipatory bail.

Petition is dismissed.

It is, however, clarified that the observations contained in this order are confined only as regards considering the prayer of the petitioner for grant of anticipatory bail and would have no bearing on the merits of this case.

21.04.2016
harjeet

(TEJINDER SINGH DHINDSA)
JUDGE