

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM No. M-30305 of 2015 (O&M)
Date of Decision: 11.01.2016

Lachhman Dass

--Petitioner

Versus

State of Punjab

--Respondent

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

Present:- Mr. H.N.S. Gill, Advocate for the petitioners.

Mr. K.D. Sachdeva, Addl. A.G., Punjab.

TEJINDER SINGH DHINDSA.J

This order shall dispose of CRM No. M-30305 of 2015 (Lachhman Dass Vs. State of Punjab), CRM No. M-31979 of 2015 (Rajinder Singh Vs. State of Punjab) and CRM No. M-36188 of 2015 (Nirmal Singh Vs. State of Punjab) as these three connected petitions arise out of the same F.I.R bearing No.12 dated 08.08.2015 under sections 420, 465, 468, 447, 467, 471, 120-B I.P.C registered at Police Station NRI, Mohali District S.A.S. Nagar (Mohali) and prayer of the petitioners in these three petitions is for the grant of pre-arrest bail.

While issuing notice of motion, the following order was passed by this Court on 8.9.2015 in CRM No. M-30305 of 2015:-

“Learned counsel for the petitioner submits that the purchaser Nirmal Singh has filed a civil suit for specific performance before the Civil Court, wherein, written statement has also been filed by the complainant- Amarjeet Singh and no allegation has been levelled against the petitioner. He further submits that the petitioner is the only signatory to the agreement to sell and the main allegations are against Sukhraj Singh, who is close relative of Amarjeet Singh and he has been granted regular bail. Learned counsel further submits that nothing is to be recovered from the petitioner and he is ready

to join investigation.

Notice of motion for 08.10.2015.

However, in case, the petitioner joins investigation and in the event of his arrest, he shall be released on interim bail to the satisfaction of the Investigating Officer. He shall join the investigation as and when required by the Investigating Officer. He shall also comply with the conditions as envisaged under Section 438(2) of the Code of Criminal Procedure, which are as under :-

(i) that the petitioner shall make himself available for interrogation before investigating 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 prior permission of the Court.”

Notice of motion was issued on 18.9.2015 in CRM No.M-31979 of 2015 and in the following terms:-

“Learned counsel for the petitioner submits that the dispute between the parties is of civil in nature and criminal shape has been given. Learned counsel further submits that an agreement to sell was entered into between the parties and the petitioner was the witness to one of the parties but not to the sale deed. The suit for specific performance has also been filed. Learned counsel also submits that co-accused of the petitioner, namely, Lachhman Dass has approached this Court by way of filing Criminal Misc. No. M-30305 of 2015 wherein notice of motion has been issued for 08.10.2015 and interim bail has also been granted.

Notice of motion for 08.10.2015.

To be heard along with Criminal Misc. No. M-

30305 of 2015.

Meanwhile, the petitioner is directed to join investigation and in the event of arrest, he shall be released on interim bail to the satisfaction of the Investigating Officer. He shall join the investigation as and when required by the Investigating Officer. He shall also comply with the conditions as envisaged under Section 438(2) of the Code of Criminal Procedure, which are as under:-

(i)that the petitioner shall make himself available for interrogation before investigating 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 prior permission of the Court.”

Likewise, the notice of motion order dated 20.10.2015 passed in CRM No. M-36188 of 2015 reads in the following terms:-

*“Learned counsel for the petitioner submits that co-accused of the petitioner, namely, Lachhman Dass has approached this Court by way of filing **Criminal Misc. No.M-30305 of 2015**, which is pending for 19.11.2015 after issuing notice of motion.*

Notice of motion for 19.11.2015.

*To be heard along with **Criminal Misc. No.M-30305 of 2015**.*

*Interim order in the same terms as in **Criminal Misc. No.M-30305 of 2015**.”*

Learned State counsel upon instructions from S.I Tejinder Singh would apprise the Court that the petitioners in these three connected petitions have since joined investigation.

That apart, it has gone uncontroverted that Nirmal Singh i.e. petitioner in CRM No. M-36188 of 2015 had already instituted a suit for specific performance prior to the registration of the F.I.R and in which complainant Amarjit Singh Singh was arrayed as a party/respondent and in such suit even a reply has been filed and the agreement to sell in respect of the property in question has not been in dispute.

In view of the fact that the petitioners herein have already joined investigation and coupled with the fact that a civil suit pertaining to the same very dispute is already pending before the civil court, custodial interrogation of the petitioners, as such, would not be warranted. Accordingly, all the three petitions are allowed. Order dated 8.9.2015, passed in CRM No. M-30305 of 2015, order dated 18.9.2015, passed in CRM No. M-31979 of 2015 and order dated 20.10.2015 passed in CRM No. M-36188 of 2015, are made absolute.

Petitions disposed of.

(TEJINDER SINGH DHINDSA)
JUDGE

11.01.2016
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