

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM No. M-40950 of 2015 (O&M)
Date of Decision: 12.01.2016

Mandeep Dhariwal

--Petitioner

Versus

State of Punjab

--Respondent

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

Present:- Mr. Harish Sharma, Advocate for the petitioner.

Mr. A.S. Kler, D.A.G., Punjab.

Mr. C.S. Rana, Advocate for the complainant.

TEJINDER SINGH DHINDSA.J

This order shall dispose of the present petition filed under Section 438 Cr.P.C praying for the grant of anticipatory bail to the petitioner in cross case registered vide D.D.R No. No.20 dated 15.11.2014 under sections 323, 342, 506, 406, 498-A, 148, 149 I.P.C in F.I.R No.199 dated 13.11.2014 under sections 323, 326, 452, 506, 148, 149 I.P.C., registered at Police Station, Laddowal, District Ludhiana.

On 4.12.2015, while issuing notice of motion, the following order was passed by this Court:-

“Petitioner seeks pre-arrest bail in DDR No.20 dated 15.11.2014 under Sections 323,342,506,406,498-A,148,149 IPC in FIR No.199 dated 13.11.2014 under Sections 323,326,452,506,148,149 IPC registered at Police Station Laddowal, Distt. Ludhiana.

Learned counsel for the petitioner places reliance on the MLR of the petitioner at Annexures P-3 and P-4, to contend that the cross case was registered against the petitioner vide DDR No.20 dated 15.11.2014 as a counter blast to the FIR No.199 dated 13.11.2014, because the petitioner lodged the said FIR against the complainant of cross case.

Petitioner suffered more than one injury as pointed out in the MLR, which have gone totally unexplained in the cross case, which shows that the petitioner has been falsely implicated. He submits that in such a situation, custodial interrogation of the petitioner would not be required.

*Notice to Advocate General, Punjab, for
12.1.2016.*

In the meantime, in the event of arrest, petitioner shall be released on interim anticipatory bail to the satisfaction of arresting/investigating officer, subject to the conditions envisaged under Section 438(2) Cr.P.C. At the first instance, petitioner shall join the investigation on or before 11.12.2015 and cooperate with the investigating agency. The petitioner is also directed to join the investigation, thereafter, as and when required by the investigating agency by issuing a notice under Section 160 Cr.P.C.”

During the course of hearing today, learned State counsel as also counsel for the complainant would oppose the present petition by contending that even though, the petitioner has joined investigation but he is not cooperating and even recovery of certain gold ornaments is to be effected.

The stand on behalf of the complainant as also State does not inspire confidence. It may be noted that after the grant of interim protection vide order dated 4.12.2015 the petitioner is stated to have reported before the investigating agency but was not permitted to join investigation. Accordingly, the petitioner was constrained to file an application before the concerned area Magistrate and it is only upon intervention that the petitioner has been permitted to join investigation.

That apart, the observations contained in the notice of motion order dated 4.12.2015 have not met with any rebuttal.

In the considered view of this Court, custodial interrogation of the petitioner, as such, would not be warranted. Accordingly, the present petition is allowed. The order dated 4.12.2015, passed by this Court, is made absolute.

Petition disposed of.

(TEJINDER SINGH DHINDSA)
JUDGE

12.01.2016

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