

CRM No.M-30565 of 2017

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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM No.M-30565 of 2017
Date of decision:30.10.2017

Pawandeep Tuli

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Karanjit Singh, Advocate
for the petitioner.

Mr. Manreet Singh Nagra, AAG, Punjab.

AMIT RAWAL J. (Oral)

This petition has been filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in case FIR No.74 dated 04.04.2011 under Sections 193, 196, 465, 468, 471, 120-B of IPC registered at P.S.City Tarn Taran, District Tarn Taran.

Learned counsel for the petitioner submits that aforesaid FIR was registered against Gagandeep Singh @ Naina son of Harbhajan Singh by the police officers and in order to verify the age of Gagandeep Singh, the investigation was done by SHO from the Head Teacher, Government Elementary School, Havellian and Government High School, Naushera Dhalla and it came out to the knowledge that his date of birth is 16.09.1986. On investigation, it surfaced that birth certificate was not issued by the Sub-Registrar (Birth & Death), Municipal Corporation, Amritsar.

Further allegation against the accused-Gagandeep Singh is when apprehended, 22 kg of heroine and one 30 bore pistol with six cartridges were recovered and due to aforesaid recovery, two FIRs were registered against him, i.e, FIR No.25 dated 23.05.2010 under Sections 307 IPC, 21 and 61 of NDPS Act at P.S Khemkaran and FIR No.26 dated 23.05.2010, under Section 25 of the Arms Act. Allegation against the petitioner is that he has signed bail bonds of Gagandeep Singh in the aforementioned FIR, therefore, there was no prima facie case made out for commission of offence resulting into summoning of the petitioner under Section 319 Cr.P.C.

He has drawn the attention of this Court to the notice of motion order dated 22.08.2017, whereby, arrest of the petitioner was stayed and he was released on ad-interim bail to the satisfaction of the arresting officer. In compliance of the aforesaid order, order dated 13.10.2017 has been passed by the Chief Judicial Magistrate, Tarn Taran which has been handed over to the Court during the course of hearing. The same reads thus:-

*“Present: Sh.I.P.S.Sandhu, Assistant Public Prosecutor.
Sh. H.K.Handa, Advocate for accused Jasbir Kaur.
Accused Jagdeep Singh Proclaimed Person.
Accused Gagandeep Singh in person.*

Upon notice accused appeared. Since the Hon'ble High Court has granted Anticipatory ad-interim to the satisfaction of arresting officer and not to this Court, therefore, this order of Hon'ble High Court be awaited for 01.11.2017.”

On instructions from H.C. Satnam Singh, learned State counsel appearing on behalf of the State submits that the order under challenge is

perfectly legal and justified. Petitioner had in conspiracy with Gagandeep Singh and Jasbir Kaur gave false information for the purpose of getting a bail in case FIR Nos.25 and 26 dated 23.05.2010 and therefore, the order under challenge cannot be quashed at this stage.

I have heard learned counsel for the parties and appraised the paper book.

Factum of the petitioner having been furnished the bail bonds in FIR Nos.25 and 26 has not been controverted by the State counsel. The bail bonds, admittedly bear the signatures of the petitioner. The allegation in FIR No.24 is that Gagandeep Singh and Jasbir Kaur had managed to give forged birth certificate for the purpose of seeking concession of anticipatory bail in aforesaid FIR Nos.25 and 26 registered under various Sections in which the petitioner had no role to play. Admittedly, name of the petitioner during investigation was kept in column no.2 of the challan.

The law on exercising the powers under Section 319 Cr.P.C is no longer *res integra*. The Court has to be very wary in issuing the orders and not in a routine manner. Once no overact has been attributed in committing of offence in the proceedings initiated in the FIR No.74 as noticed above, I am of the view that the order under challenge summoning the petitioner under Section 319 Cr.P.C, is not sustainable in the eyes of law, resulting into gross abuse of process of law. Accordingly, the same is hereby quashed.

Petition stands allowed.

(AMIT RAWAL)
JUDGE

October 30, 2017

savita

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No