

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

**CRM-M-38432-2017 (O&M)
Date of decision: - 23.10.2017**

Mehmood

.....Petitioner

versus

State of Haryana

.....Respondent

CORAM: - HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: - Mr. Gautam Dutt, Advocate for the petitioner.

Mr. R.K.Makkad, DAG Haryana.

Mr. D.S.Matya, Advocate for complainant.

ARVIND SINGH SANGWAN, J (ORAL)

Prayer in the present petition is for grant of anticipatory bail in FIR No. 53 dated 2.2.2016 under Sections 166, 167, 193, 195, 196, 218, 219, 220, 330, 342, 365, 489-A, 120-B IPC and Sections 17-61-85 of NDPS Act and Section 3 of SC/ST Act, registered at Police Station Punhana District Nuh (Haryana).

Learned counsel for the petitioner submits that petitioner is a police official working as ASI in Haryana police and has been falsely implicated in the present case. A perusal of the FIR shows that at the first instance FIR No. 437 dated 2.8.2015 under Section 489-A IPC and Section 17 of the NDPS Act was registered at Police Station, Hodal, District Palwal against one Kundan Lal and the co-accused-Ashu. The said Kundan Lal filed a petition i.e. **CRM-M-34686-2015, Kundan Lal vs. State of Haryana and ors** before this Court praying for fair and impartial investigation of the case and the same was disposed of by this Court vide order dated 9.10.2015 directing the Inspector General of Police, Rewari to look into the grievance of the petitioner and conduct an inquiry.

Accordingly, Inspector General of Police conducted an inquiry and found that aforesaid Kundan Lal was falsely implicated in the FIR at the instance of one Ashu-Sarpanch and as per the report, it was found that petitioner, in criminal conspiracy with constable Mehboob Khan has involved the aforesaid Kundan Lal in a false case. It is further submitted that Kundan Lal filed another **CRM-M-16908-2016**, for transfer of the trial of FIR No. 437 dated 2.8.2015 to be heard and tried along with the present FIR No. 53 dated 2.2.2016 and same was rendered infructuous in view of the fact that Kundan Lal was declared innocent and police recommended immediate cancellation of FIR.

Learned counsel for the petitioner has submitted that in fact at the time of registration of the FIR 437 dated 2.8.2015, petitioner was residing at Madhuban and was not present at the spot, however, it has come in the inquiry to Inspector General of Police, Rewari, that as per the call details of constable Mehmood and of the petitioner, they were talking to each other and accordingly, they contacted each other for about three months as a conspiracy to implicate said Kundan Lal falsely and it was thus recommended that said FIR No. 437 dated 2.8.2015 be cancelled.

It may be noticed that during the pendency of **CRM-M-16908-2016**, filed by Kundan Lal, a reply by way of affidavit of DSP, Hodal, was also filed (Annexure P-7) and in that reply, it was also brought to the notice of this Court that Kundan Lal was falsely implicated in FIR No. 437 and the petitioner who was posted in District Mewat along with other police officials had involved Kundan Lal in a false FIR No. 437 and has spoiled the image of the police department.

The operative part of the affidavit is reproduced as below: -

“4. That it is relevant to mention here that the learned IGP south Range Rewari investigated the matter on the direction of Hon'ble High Court passed in 34686 of 2015 vide order dated 9.10.2015 and during the course of investigation learned I.G.P. recorded statements of the petitioner Kundan Lal, SI Nanak Singh no. 24/SR, HC Mustak No. 153, CIA Staff, Hodal, ASI Rajbir Singh no. 408/Narnaul and ASI Aash Mohd and also obtained call details of all the police persons and the petitioner. During the course of investigation vide the statements of above said police officials and petitioner and call details. Learned I.G.P. South Range Rewari found that Kundan Lal was falsely implicated in the FIR no. 437 dated 2.8.2015 was registered at P.S. Hodal on the basis of fabricated evidence created by the said police officials in connivance with accused of said FIR and caught him illegally from the area of P.S. Punhana, Mewat which is not in the jurisdiction of CIA Hodal, hence Ld. I.G.P. directed the Police Officials i.e. Incharge CIA Nanak Singh (who have not only adjusted and registered the above said FIR by saving the police officials but also tried to give the benefit to accused of case FIR No. 437 by changing the place and date of occurrence), ASI Mehmood (posted in District Mewat). H.C. Mustak no. 153, PWL, Ct. Sajid Hussain no. 356/PWL and constable Mehboob Khan no. 430/PWL in mixing up with the accused of case FIR no. 437 of 2015, P.S. Hodal have maliciously spoiled the image of police department and made out the offence under Section 120-B, 166, 167, 193, 195, 196, 218, 219, 220, 330, 342 and 489-B of IPC and NDPS Act 1985 and directed to register the case at P.S. Punhana under the above mentioned sections. Hence, on the direction of the learned I.G.P., South Range Rewari FIR No. 53 dated 2.2.2016 under Sections 120-B, 166, 167, 193, 195, 196, 218, 219, 220, 330, 342 and 489-B of IPC and NDPS Act, 1985 were registered at P.S. Punhana. It is also relevant to mention here that departmental inquiries have also been initiated against all the above said police officials.”

Learned counsel for the petitioner could not rebut the fact that petitioner-accused is a close relative of co-accused Ashu and there are specific allegations of conspiracy leveled by complainant Kundan Lal in falsely

implicating him in FIR, under Section 489-A IPC read with Section 17 of the NDPS Act and, thus, petitioner misused his post of police officer in falsely implicating an innocent person in false FIR.

In view of above, no ground for anticipatory bail is made out.

Dismissed.

(ARVIND SINGH SANGWAN)
JUDGE

23.10.2017
preeti

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No