

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

CRM-M-1673-2018
Date of decision:12.3.2018

Hardeep Singh alias Dimpy Dhillon

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM : HON'BLE MR.JUSTICE MAHABIR SINGH SINDHU

Present: Mr. H.S. Brar, Advocate
for the petitioner.

Mr. Gaurav Garg Dhuriwala, Senior D.A.G. Punjab
for respondent No.1-State assisted by D.S.P. Rajpal.

MAHABIR SINGH SINDHU, J. (ORAL)

This petition has been filed under Section 438 of the Criminal Procedure Code ('Cr.P.C.' - for short) for grant of anticipatory bail to the petitioner in case FIR No.166 dated 26.12.2017 (P-2) under Sections 353, 186, 427, 506, 148 of the Indian Penal Code ('IPC' - for short) and Sections 3 & 4 of the Prevention of Damages to Public Property Act ('Act' – for short) registered at Police Station Kotbhai, District Sri Muktsar Sahib.

Briefly stated facts of the case are that on 25.12.2017 SI/SHO

Krishan Kumar was present along with other police officials at police station. At that time, a complaint was moved by the residents of village Kothe Jaghran Wale, against Yadwinder Singh son of Pritam Singh and Rajwinder Singh son of Major Singh which was marked by the SHO to ASI Ram Singh for inquiry. Accordingly, he called both the parties and on 25.12.2017, at about 6:15 p.m. produced them before the SHO. Inquiry was started and during the course of the inquiry, Yadwinder Singh immediately got furious and told the complainant party that their ancestors have left the old land and they are determined to take its possession and Yadwinder Singh tried to beat them. SHO was making them understand that decision in this regard is to be taken by Civil Court and the police cannot do anything in it, but Yadwinder Singh did not relent and kept on talking to either kill or get killed. Apprehending the breach of peace, SHO arrested Yadwinder Singh under Sections 107/151 Cr.P.C. and locked him in police lock up and was to be produced him before the Court on 26.12.2017. Then at about 7:45 p.m., Hardeep Singh alias Dimpy Dhillon defeated MLA candidate of Shiromani Akali Dal (petitioner), Sunny Dhillon son of Shivraj Singh Dhillon, Jagtar Singh (PA), residents of Gidderbaha, Bunt Dhillon, Kuldeep Singh alias Nadha resident of Giljewala, along with their supports 150 in numbers forcibly entered into police station to get Yadwinder Singh freed from the police custody. SHO came to know that Yadwinder Singh is also worker of Shiromani Akali Dal. Hardeep Singh alias Dimpy Dhillon and his supporters were made to understand that Yadwinder Singh has been

arrested in proceedings meant for keeping peace and good behaviour. As such, as per law he is to be produced before the Court on 26.12.2017. Then petitioner threatened that he along with his supporters has come to the police station and they will get release Yadwinder Singh by all means from police custody and smashed the table glass of the office by giving a fist blow and assaulted the SHO and prevented him from discharging his official duties and also threatened him that they will teach him a lesson for calling Yadwinder Singh to the police station and when their Government will come into power, they will teach him (SHO) a lesson. Thereafter, in fear of arrival of more police enforcement, petitioner along with his accomplices left the spot.

Apprehending his arrest in this case, the petitioner approached Court of learned Additional Sessions Judge for seeking pre-arrest bail, but his request was declined by learned Additional Sessions Judge, Sri Muktsar Sahib vide order dated 9.1.2018, as such, he has come to this Court seeking the relief of pre-arrest bail by filing the instant petition.

It is contended by learned counsel for the petitioner that co-accused have already been granted the concession of pre-arrest bail by this Court and he is ready to join the investigation. It is further contended that nothing is to be recovered from the petitioner as everything is alleged to had happened in the office of SHO itself and all the offences are bailable except Section 353 IPC.

On the other hand learned State Counsel has opposed the bail

application on the ground that the petitioner is the main accused and he was heading the mob which turned into an unlawful assembly. He has further argued that even the compact disc (C.D.) of the entire occurrence has been placed on record along with the reply which clearly depicts that it is the petitioner who has threatened the SHO and had broken the glass of office table.

Heard learned counsel for the parties and perused the paper book.

It is not in dispute that some of the other co-accused including one Sunny Dhillon have already been granted the concession of pre-arrest bail by this Court by way of different petitions and the role of the petitioner is almost similar to Sunny Dhillon as is clear from the C.D. and it is not clear that it is the petitioner who has broken the glass on the table of the SHO or someone else.

There is no dispute that in the present case only Section 353 IPC is non-bailable and the occurrence is alleged to have taken place in the office of SHO itself in the presence of 18 police officials, but none of the accused was apprehended for the reasons best known to the prosecution. The worse part and quite disturbing in this case is that not even an effort had been made by any of the police official to apprehend the petitioner or any other co-accused and this Court expresses its displeasure against the police officials present at the time of occurrence. It is also necessary to mention here that the SHO was standing like a mute spectator and did not take any action at that juncture except to lodge DDR & FIR and without

commenting any further, this Court leave the matter at the discretion of the competent authority for necessary action if any to be taken.

Although this Court also deprecates the actions and behaviour shown by the petitioner in emphatic terms, but the only non-bailable offence is Section 353 IPC and as discussed above, the other co-accused including Sunny Dhillon who has played the similar role to the petitioner, has already been granted the concession of pre-arrest bail by this court and joined the investigation. Even the police did not apprehend the present petitioner despite the fact that he was very much present in the office of SHO itself at the time of occurrence and no recovery is to be effected from him and he is ready to join the investigation.

Therefore this Court is of the opinion that present petition deserves to be allowed subject to the observations made hereinabove.

Consequently, the present petition is allowed and the petitioner is directed to join investigation before the Investigating Officer within three days from the receipt of copy of this order. In the event of his arrest, the Arresting Officer would admit him to bail on his furnishing adequate bail bond and surety bonds to his satisfaction. The petitioner shall abide by the following terms and conditions:-

- i) he shall make himself available for interrogation by the Investigating Officer as and when required;*
- ii) he 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) he shall not leave India without the previous permission of the Court.

Ordered accordingly.

The above observations are not to be construed as an expression of opinion on the merits of the case and are confined to only for the disposal of the present petition.

(MAHABIR SINGH SINDHU)
JUDGE

12.3.2018
Gaurav Sorot

- | | | |
|----|------------------------------|-----|
| 1. | Whether reportable? | Yes |
| 2. | Whether reasoned / speaking? | Yes |