

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-30700 of 2017(O&M)

Date of Decision: 18.01.2018

Rahul Kohli

--Petitioner

Versus

State of U.T., Chandigarh

--Respondent

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

Present:- Mr. Shailendra Jain, Sr. Advocate with
Mr. Kshitij Sharma, Advocate for the petitioner.

Mr. Gagandeep S. Wasu, A.P.P., U.T., Chandigarh.

TEJINDER SINGH DHINDSA.J (Oral)

This order shall dispose of the present petition filed under Section 438 Cr.P.C praying for the grant of pre-arrest bail to the petitioner in case F.I.R. No.151 dated 12.8.2017 under sections 186, 341, 353 and 506 I.P.C, registered at Police Station, Mauli Jagran, Chandigarh.

FIR came to be registered on the statement of Sukhbir Singh, Executive Engineer, U.T., Chandigarh. Allegations against the petitioner, who is stated to be a Contractor and having been assigned a construction contract at Raipur Kalan Makhan Majra School, are that the complainant on 10.8.2017 had physically inspected the construction site and had found certain shortcomings in the work being executed and even informed the Contractor (present petitioner) as regards the same telephonically. Thereafter, while the complainant was proceeding back to his office, he was intercepted by the petitioner and was manhandled as also threatened with dire consequences.

The instant petition came up for preliminary hearing on 22.8.2017 and the following order was passed by this Court:-

“Learned senior counsel appearing on behalf of the petitioner has, inter alia, argued that the petitioner has not obstructed the functioning of the complainant in any manner. The allegation that the petitioner has a criminal history is totally false. The construction made by the petitioner being a contractor is otherwise as per the specifications/norms prescribed by the administration.

Notice of motion for 13.09.2017.

Meanwhile, in the event of arrest of the petitioner, he shall be released on ad-interim bail to the satisfaction of the arresting officer. However, the petitioner shall join the investigation as and when directed by the investigating agency and shall abide by the terms and conditions laid down under Section 438(2) Cr.P.C.

On the adjourned date, the Chief Engineer, UT, Chandigarh, shall submit a report vis-a-vis the construction carried out by the petitioner of Raipur Kalan, Makhan Majra School, U.T., Chandigarh.”

Learned counsel appearing for U.T., Chandigarh upon instructions from ASI Ramesh Chand would apprise the Court that the petitioner has since joined investigation.

That apart, it may be noticed that it is the complainant's version himself that prior to recording of a statement before the police authorities which led to the registration of the FIR he had addressed a communication dated 10.8.2017 with regard to the incident in question to the Worthy Advisor, Home Secretary, Finance Secretary, Chief Engineer as also to the Superintending Engineer. The communication which finds a mention in the

FIR stands appended at Annexure P-2 along with the instant petition and the

contents of which have not been disputed by the counsel representing the U.T., Chandigarh.

I find considerable merit in the contention raised by learned senior counsel that an attempt has been made by the complainant to enhance the gravity of the offence inasmuch as the allegation with regard to the complainant having been manhandled by the collar and thereby attracting offence under section 353 I.P.C has not even been mentioned in the communication at Annexure P-2. A conjoint reading of Annexure P-2 i.e. memo dated 11.8.2017 addressed by the complainant to the Chief Engineer, U.T., Chandigarh and the FIR clearly reflect that prima facie there appears to be a variance in the allegations. Still further, even though, the complainant has alleged that the petitioner is involved in other criminal proceedings, yet, learned counsel representing the U.T., Chandigarh responds by submitting that the petitioner has clean antecedents.

On a pointed query having been put to counsel for U.T., Chandigarh, it has been conceded that in pursuance to the work order in question assigned to the petitioner, as per report of the Chief Engineer, there were shortcomings in the construction work as on the date of the alleged occurrence and which have since been rectified.

In the totality of the circumstances noticed herein above and keeping in view the fact that the petitioner has joined investigation, his custodial interrogation is not warranted.

Accordingly, the present petition is allowed. The order dated 22.8.2017, passed by this Court, is made absolute.

It is clarified that the observations contained in this order are confined to considering the prayer of the petitioner for anticipatory bail and would have no bearing on the merits of the case.

Petition disposed of.

All the pending applications also stand disposed of.

(TEJINDER SINGH DHINDSA)
JUDGE

18.01.2018

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Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No