

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M No. 40926 of 2017 (O&M)

Date of decision : 23.1.2018

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Likhpal Singh

.....Petitioner

vs.

Railway Police Force and another

.....Respondents

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. A.K. Arora, Advocate for the petitioner

Mr.Puneet Jindal, Senior Advocate with
Ms. Neha Anand Mahajan, Advocate for respondent No.1.

Mr. Saurav Khurana, DAG, Punjab.

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H. S. Madaan, J.

This petition for pre-arrest bail has been filed by petitioner Likhpal Singh in crime case No. 19/17 dated 2.6.2017 under Section 3 of the Railway Property (unlawful possession) Act, 1966 as amended in 2012 (hereinafter to be referred as “the Act”), registered with RPF Post, Amritsar.

Briefly stated, facts of the case are that according to the petitioner he is a partner in the firm namely, M/s CTS Engineering

and Contractors, 339, Karol Bagh, Behind Suchi Pind, Railway Station, Jalandhar; that the firm deals in installation of various electrical appliances having 'A' class Electrical License in the name of the firm; that the said firm has been doing work for Indian Railways on contract basis. On 3.9.2017 the Investigating Officer of Railway Police Force of post Amritsar and Pathankot, summoned the petitioner in connection with investigation of theft which had taken place in the Indian Railways. The petitioner, accordingly appeared before the Investigating Officer and got his statement recorded. He was again called for recording his statement and producing relevant record of railway contact on 12.9.2017 before Investigating Incharge RPF Amritsar. The petitioner complied with that direction. According to the petitioner, thereafter the Investigating Officer started harassing him on one pretext or the other. He again issued summons on 9.10.2017 to the petitioner for his appearance on 20.10.2017. The petitioner apprehended his arrest at the hands of police. He filed a petition for pre-arrest bail before the Additional Sessions Judge, Amritsar. However, his such petition was dismissed vide order dated 27.10.2017, as such he has approached this Court seeking similar relief.

Notice of the petition was given to the State and the complainant.

The petitioner has been granted interim bail during the course of which he is stated to have joined the investigation.

I have heard learned counsel for the parties, besides going through the record.

As per Section 3 of the Act, whosoever commits theft, or dishonestly misappropriates or is found or is proved to have been, in possession of any railway property reasonably suspected of having been stolen or unlawfully obtained shall, unless he proves that the railway property came into his possession lawfully, be punished for the first offence, with imprisonment for a term which may extend to five years, or with fine, or with both and in the absence of special and adequate reasons to be mentioned in the judgment of the Court, such imprisonment shall not be less than one year and such fine shall not be less than one thousand rupees and for the second or a subsequent offence, punishable with imprisonment for a term which may extend to five years and also with fine and in the absence of special and adequate reasons to be mentioned in the judgment of the Court, such imprisonment shall not be less than two years and such fine shall not be less than two thousand rupees.

The procedure and offence under the Act are contained in Sections 6 to 8 of the Act. Section 6 of the Act, empowers any superior officer or member of the Force to arrest any person involved in an offence punishable under the Act or against whom a reasonable suspicion exists of his having been so concerned, without an order from a Magistrate and without a warrant.

Under Section 7 every person arrested for an offence punishable under this Act shall, if the arrest was made by a person other than an officer of the Force, be forwarded without delay to the nearest officer of the Force. Section 8 dilates as to how an enquiry is to be conducted in the matter.

Learned counsel for the petitioner has submitted that since the petitioner has joined the investigation and has rendered full cooperation, therefore the interim bail granted to him be made absolute and the present petition be allowed.

Whereas learned counsel appearing for respondents state that though the petitioner has joined the investigation but he has not rendered full cooperation therefore, his custodial interrogation is necessary for complete and effective investigation.

After hearing rival contentions, I find that since the petitioner has joined the investigation/enquiry and is stated to have supplied the documents/information and further more, the case more or less, involves documentary evidence, the custodial interrogation of the petitioner is not found to be necessary.

In these circumstances, the interim bail granted to the petitioner vide order dated 9.11.2017 is made absolute, subject to fulfillment of conditions envisaged under Section 438(2) Cr.P.C.

The petition in that way is allowed.

It is made clear, that in case the petitioner is found to be indulging in any criminal activity, after being granted bail vide this order, the order shall be liable to be withdrawn.

(H.S. Madaan)
Judge

23.1.2018

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Whether speaking / reasoned

Yes / No

Whether reportable

Yes / No