

Crl. Misc. No. M-44003 of 2017

Date of Decision: September 10, 2018

Darshan Singh

.....Petitioner

versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR.JUSTICE SUDHIR MITTAL

Present: Mr. A.S. Khinda, Advocate
for the petitioner

Mr. Kirat Singh Sidhu, DAG Punjab

Mr. Bhupinder Ghai, Advocate
for the complainant

Sudhir Mittal, J. (Oral)

The present petition has been filed for grant of anticipatory bail to the petitioner in case FIR No. 174 dated 20.08.2017, registered under Sections 323, 379-B, 506, 148, 149 IPC, at Police Station Machiwara, District Ludhiana.

A perusal of the record shows that vide order dated 29.11.2017, interim anticipatory bail was granted to the petitioner as it was submitted on his behalf that he is 73 years of age and the only injury attributed to him is simple in nature.

Thereafter, the complainant has put in appearance and has filed his reply. It has been stated therein that the dispute between the parties is on account of a small piece of land measuring 9 marlas. A civil suit had been filed regarding the said piece of land by the petitioner and his co-accused for a declaration that they are owner in possession thereof. The suit was decreed but the appeal filed by the complainant side was allowed, against which the Regular Second Appeal was filed by the petitioner and his co-accused. The present FIR was registered

24.08.2017 and the RSA was withdrawn vide order dated 07.08.2017. Another civil suit filed by the petitioner and his co-accused was also withdrawn on 20.09.2017. The co-accused of the petitioner took advantage of the compromise dated 24.08.2017 and because the complainant made a statement in their favour they were granted anticipatory bail by the trial Court vide order dated 16.09.2017. Immediately thereafter, on 18.09.2017, the petitioner sought review of the order dated 07.09.2017 whereby the RSA was withdrawn. Thus, it is apparent that the petitioner and his co-accused had taken advantage of the complainant side and are now resiling from the compromise. The conduct of the petitioner does not entitle him to grant of anticipatory bail. Moreover, a sum of Rs. 21,000/- snatched by the petitioner during the incident of 20.08.2018 has still not been recovered.

Learned counsel for the petitioner reiterates that the petitioner is 73 years of age and the only injury attributed to him is simple in nature. The allegation against the petitioner of snatching is general in nature and is not against the petitioner alone. Further, the police has presented a challan dated 01.01.2018, in which the petitioner has been kept in column No. 2 and, thus, the petitioner deserves to be granted anticipatory bail as pursuant to interim order dated 29.11.2017, he has joined the investigation and is cooperating therewith.

Learned State counsel submits that the petitioner was kept in column No. 2 in challan dated 01.01.2018 because the petitioner has not yet been arrested and investigation is still pending against him. It is not that the police has found the petitioner innocent.

The aforementioned facts unequivocally shows that the petitioner and his co-accused have taken advantage of compromise dated 24.08.2017 but now want to resile therefrom the detriment of the complainant party. The person who holds out a promise and takes benefit thereof can not be permitted to say at a later

by the same. The principle of promissory estoppel bars such conduct. In this case it is clear that the petitioner and his co-accused have taken benefit of the compromise dated 24.08.2017 and after securing anticipatory bail they are now trying to back out of the compromise so as to cause loss to the complainant side. Further, recovery of Rs. 21,000/- is still to be effected and the offence under Section 379-B IPC is serious in nature as it is punishable with rigorous imprisonment for 10 years.

For the reasons aforementioned, the present petition is dismissed.

September 10, 2018

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[SUDHIR MITTAL]
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No