

CRM-M-7164-2018

Date of Decision:27.03.2018

Jagmail Singh Dhillon

.....Petitioner

Vs.

State of Punjab

....Respondent

CORAM : HON'BLE MR.JUSTICE AMOL RATTAN SINGHPresent: Mr.G.S.Kaura, Advocate,
for the petitioner.Ms. Monika Jalota, Deputy Advocate General, Punjab.
assisted by SI Surjit Singh.Mr.Kawaljyot Singh, Advocate.
for the complainant.**AMOL RATTAN SINGH, J. (Oral)**

Pursuant to the order dated 08.03.2018, an affidavit of Sh.Gurpreet Singh Bhullar, IPS, Senior Superintendent of Police, District Jalandhar (Rural), has been filed in Court today by the learned State counsel, a copy of which is given to learned counsel for the petitioner.

2. As per the said affidavit the Superintendent of Police, Investigation, District Jalandhar (Rural), was directed to inquire/investigate into the matter as also to inquire into the responsibility of erring officials with regard to the issuance of passports to the petitioner from the year 1988 till now.

As per the inquiry/investigation conducted by the Superintendent of Police, Investigation, it was found out that the father of the petitioner, Piara Singh, had three wives, with one son, namely Devinder Singh, born from the wedlock between Gurdeep Kaur and Piara Singh, the said Devinder Singh stated to be actually the petitioner.

Jagmail Singh, who the petitioner claims to be, is stated to have been born from the wedlock between Surjit Kaur and Piara Singh, with his mother also having given birth to two daughters, namely Ravinder Kaur and Baljinder Kaur, who are now citizens of Canada.

From the third wedlock, with Kewal Kaur, two sons, namely Amarjit Singh and Prithpal Singh, and one daughter, Kamaljit Kaur, were born to Piara Singh.

3. As per the investigation carried out, the petitioner (Devinder Singh) was born on 07.04.1972, which has been found out from the Government Primary School as also from Government Senior Secondary School at village Rastgo, District Jalandhar, with Jagmail Singh having been born on 14.06.1970, who died in an accident on 14.03.1973, before he was 3 years old.

The SSPs' affidavit further states that as per investigation the birth certificate and death certificate of Jagmail Singh have also been inquired into, the copies of which have been annexed with the affidavit before the Court.

4. The sister of Jagmail Singh, i.e. Baljinder Kaur, had applied for getting her brothers' and sisters' immigrated to Canada, with the petitioner at that stage having taken the benefit of the death of Jagmail Singh, impersonating himself as Jagmail Singh by "misusing the birth certificate of Jagmail Singh" and getting a passport issued in that name from the Regional Passport Office, Jalandhar, in the year 1988.

Documents received from the RPO office, Jalandhar, have also been annexed with the affidavit of the SSP.

5. It is further stated that as per the record of the District Transport

Officer, Fazilka, Devinder Singh was found to be owning a truck bearing registration no.PBX 521, with a driving license also issued in his name (as Devinder Singh son of Piara Singh), with him having been “challaned” on account of an accident with a Maruti car bearing registration no.PAG 6995, and FIR No.201 dated 29.08.1989 having been registered against him at Police Station Nurpur, District Kangra (HP), alleging therein the commission of offences punishable under Sections 304-A/338/427 IPC. In that petition, Devinder Singh stands declared as a proclaimed offender.

It is further stated in the affidavit that in connection with the aforesaid FIR No. 201 registered in the year 1989, the petitioner had stated his name to be Devinder Singh and had given as identity proof his driving licence (as Devinder Singh), despite getting a passport prepared in the name of Jagmail Singh in the year 1988.

The SSP in his affidavit further goes on to state that the SP, Investigation, has proved that the petitioner is infact Devinder Singh and not Jagmail Singh, on account of the statement of Balbir Singh dated 12.07.2017, who as per the learned State counsel, (on instructions) is the first cousin of the petitioner, who has stated that the petitioner is actually Devinder Singh, using the name of his brother Jagmail Singh, who died on 14.03.1973.

6. Yet further, the affidavit states that the statement of the complainant also verified the factum of the death of Jagmail Singh, with the petitioner using the name of his deceased brother. It has further been reiterated that the school record of the Government Primary School at village Rastgo, shows the date of birth of the petitioner (as Devinder Singh) to be 07.04.1972, with him having studied upto Class-V there, after which he studied upto Class-VIII in the Government Senior Secondary School in the

same village.

As per the investigation, the petitioner got recorded in his statement that he was illiterate, whereas his passport bears his signatures and even in the passport application form he had stated that he had been educated “from Class-VI to Class-IX.”

Still further as per the affidavit, the petitioner could produce no document to show that he was educated with the name Jagmail Singh.

All in all, as per the investigation carried out, the petitioner has been found to be Devinder Singh, impersonating his late brother Jagmail Singh.

7. As regards the direction of this Court to inquire into the issuance of passports to the petitioner, the affidavit of the SSP further states that an inquiry was made from the Regional Passport Officer by the Investigating Officer, with regard to the passports issued since 1988. However, nothing has been stated as to who were the police officers/officials who gave a clean chit of verification at the time when the petitioner applied for passports at different points of time.

The affidavit further states that as regards the ASI present in the Court on the last date of hearing not knowing anything about the case, ASI Gurnam Singh was found to be negligent and accordingly a departmental inquiry has been initiated against him.

8. Learned counsel for the petitioner on the other hand submits that the entire investigation is inaccurate; firstly because even the date of birth of Jagmail Singh has been wrongly given as 14.06.1970, who was actually born on 14.06.1971, even as per the Register of the Village Chowkidar, a copy of which has been produced in the Court today.

He further points to the fact that at serial no.41 of the Register (photocopy), the date of death of Jagmail Singh is shown as 14.03.1973 at the age of one and a quarter of a year, with the cause of death not being shown to be an accident but possibly pneumonia (written in Gurmukhi and therefore not clear).

9. Learned counsel further submits that all the documents pertaining to the petitioner being Jagmail Singh were prepared when he was 13-14 years old, including the passport first issued to him in the year 1988 (in which his date of birth is shown to be 14.06.1970), with the passport issued on November 21, 1988.

He thus submits that all such documents, even if forged/fraudulently prepared, the petitioner has not forged them and therefore, if any identity was created as Jagmail Singh with the petitioner actually being Devinder Singh, the petitioner has no knowledge of it and if any fraud was committed, it was by his late father.

10. When queried by this Court on the driving license referred to in the affidavit of the SSP, learned counsel submits that it was not the license of the petitioner and therefore he denies all knowledge thereof.

He further submits that the FIR has been registered at the instance of the complainant who has a grudge against him and otherwise has nothing to do with the petitioner and consequently, the FIR deserves to be quashed.

He lastly submits that the petitioner has not gained anything out of him being projected as Jagmail Singh, with no loss also caused to anybody.

11. As regards the locus standi of the complainant, nothing further is being stated by this Court, with the offences made out in the FIR being

cognizable offences, which would all be investigated thoroughly by the investigating agency, the petitioner obviously being free to produce any documents in his favour, both before the investigating agency and the competent Court when it comes to that stage.

However, in these circumstances, I see absolutely no reason to continue the interim order in his favour, even though learned counsel submits there is nothing to be recovered from him.

Consequently, this petition is dismissed and the interim order is vacated.

However, for the purpose of another affidavit of the SSP District Jalandhar (Rural) to be filed, with regard to investigation carried/inquiry conducted on the role of police officials in verifying the identity of the petitioner, leading to him being issued three passports, the case file be put up on 18.07.2018.

The affidavit of the SSP, be positively filed in that regard by the next date of hearing.

All observations made hereinabove by this Court are only on the basis of the affidavit filed by the SSP, in this application seeking anticipatory bail, with naturally the petitioner at liberty to lead all defence in his favour before the investigating agency/competent Court, as the case may be, at each appropriate stage.

A copy of this order be given to learned State counsel under the signatures of the Bench Secretary.

March 27, 2018

dharamvir/dinesh

(AMOL RATTAN SINGH)

JUDGE

Whether speaking/reasoned : YES/NO

Whether Reportable : YES/NO