

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

CRM-M-22803-2017 (O&M)
Date of decision: 21.2.2019

Harmail Singh

... Petitioner(s)

VERSUS

State of Punjab and another

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present: Mr. Anurag Chopra, Advocate.
for the petitioner.

Mr. C.L. Pawar, DAG, Punjab.

Mr. Karamveer Singh Banyana, Advocate,
for respondent No.2.

RAJ SHEKHAR ATTRI, J.

The present petition has been filed under Section 438 read with Section 482 of Code of Criminal Procedure for grant of anticipatory bail to the petitioner in complaint case No.424/25.9.2012 filed under Sections 308, 325, 506 of Indian Penal Code read with Sections 3 and 4 of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989 and quashing of order dated 7.2.2017 passed by Judicial Magistrate, 1st Class, Ludhiana whereby non-bailable warrants have been issued against the petitioner.

This case has checkered history.

Petitioner-Harmail Singh was the Sarpanch of village Phallewal, Tehsil and District Ludhiana. The complainant was running a depot under Public Distribution System (PDS) No.95 in village Gujjarwal,

Tehsil and District Ludhiana.

It is the case of the petitioner that on account of fraudulent manner in which the complainant misappropriated and siphoned the food grains meant to be distributed to the poor people of the village under public distribution system, a complaint was received in the office of Gram Panchayat, village Phallewal, as such, the petitioner being Sarpanch inspected the depot on 26.3.2012 and detected some serious irregularities. The inspection report was forwarded to District Food & Supply Controller, Ludhiana. In pursuance thereof, the supply of food grains to the depot of the complainant was suspended.

It is the case of the petitioner that the complainant while harbouring a grudge against the petitioner and also to seek revenge, lodged FIR No.16 dated 24.2.2013 registered under Sections 342, 323, 392, 397, 402, 506, 34 of Indian Penal Code read with Sections 3 & 4 of Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act. During the inquiry, the investigating agency found that the allegations levelled in the FIR are false and incorrect and they recommended for cancellation of the FIR. The complainant filed a private complaint (Annexure P-5) under Sections 308, 325 and 506 of Indian Penal Code and 3 & 4 of Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act. However, another FIR No.39 dated 11.5.2012 was registered the complainant under Sections 379 and 411 of Indian Penal Code at Police Station Jodhan, District Ludhiana Rural.

I have heard the learned counsel for the parties and gone through the record.

Initially on the application of the complainant, FIR No.16 dated

24.2.2013 was registered but it came to the notice of the investigating agency that the injuries were not received at the hands of the petitioner, rather those were suffered by the complainant in an accident. Accordingly, cancellation report was submitted. It has also come to the notice of the investigating agency that when the complainant was admitted in the hospital, he himself stated that he suffered injuries due to fall from tempo/trolley i.e. in an accident and he was got admitted by a passer-by.

Keeping in view the totality of the circumstances and facts of the case, this Court is of the view that the petitioner is entitled to the benefit of anticipatory bail. Accordingly, this petition is allowed with a direction to the petitioner to surrender before the trial Court and on his doing so, the trial Court shall release him on interim bail subject to its satisfaction and conditions, if any,.

February 21, 2019
Paritosh Kumar

(RAJ SHEKHAR ATTRI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No