

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANAAT CHANDIGARH**

Crl. Misc. No.M-35484 of 2019

Date of Decision: November 07, 2019

Charanjit Kaur

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Mr. Harvinder Singh Mann, Advocate,
for the petitioner.

Mr. A.P.S.Gill, DAG, Punjab,
for the respondent.

Mr. Amandeep Chhabra, Advocate,
for the complainant.

Amol Rattan Singh, J.(Oral)

By this petition, filed under the provisions of Section 439
Cr.P.C., the petitioner seeks the concession of 'regular bail'.

On October 16, 2019, the following order had been passed:-

“Pursuant to the order dated 04.09.2019, an affidavit of Dr. Narinder Bhargav, Senior Superintendent of Police, Mansa, has been filed in Court today by learned State counsel, stating therein that the complainant, ASI Amrik Singh, and his family, own 16 acres of agricultural land, with his father being a retired Government teacher and the family having sound financial dealings with the commission agent from whom he is stated to have raised a loan of Rs. 7,00,000/- in cash.

Without making any comment on the actual merits of the case but keeping in view the provisions of Section 269ST of the Income Tax Act, 1961, (as amended up-to date), which stipulates that no transfer of money beyond Rs. 2,00,000/- for a single transaction or a series of such transaction shall be carried out without a bank instrument, I see no reason as to why the petitioner should not be admitted to interim bail, he already having been in

custody since 04.07.2019, with the trial still to virtually start.

The petition is adjourned to 07.11.2019 for the complainant to explain as to how, in the face of the aforesaid provision, such a cash transaction was entered into by him, especially being a Government servant, with the petitioner to be admitted to interim bail to the satisfaction of the trial Court, till the next date of hearing before this Court.

As regards the allegation of the petitioner that in fact it was the complainant who had even committed rape on her, it has been stated in the affidavit of the SSP that no such complaint/application dated 27.06.2019 has been found to have been made.

In response thereto, learned counsel for the petitioner points to what is recorded in the FIR itself at the instance of ASI Amrik Singh:- “Being aggrieved from this thing, Charanjit Kaur in connivance with aforesaid persons with intention to mount pressure upon me, had filed application before Senior Officers against me by levelling false allegations of rape upon me. Manjinder Singh alias Julf Khan and Karnail Singh extended threats to me regarding implication in false rape case.”

The Senior Superintendent of Police, Mansa, is directed to file another affidavit stating therein as to how, when the complainant himself is stating that an application against him had been filed by the petitioner alleging therein the commission of the offence of rape, the SSP is stating in his affidavit that no such complaint was actually filed.

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

Today, an additional affidavit of Dr. Narinder Bhargav, Senior Superintendent of Police, Mansa, has been filed by the learned State counsel, which is ordered to be taken on record, a copy of which has been given to the learned counsel for the petitioner today.

From the said affidavit, learned State counsel submits that after perusing the entire record from the office of the “PC Branch, HRC Branch DPO Mansa, Reader Branch”, of the office of the Senior Superintendent of

Police, Mansa, the Superintendent of Police, Investigation, Mansa, had submitted a report that no complaint/application dated 27.06.2019 was received from the petitioner, Charanjit Kaur, against the complainant in the present FIR, i.e. ASI Amrik Singh, with it further reported that Charanjit Kaur had submitted an application on 25.06.2019 to the Senior Superintendent of Police, Mansa, as also to the Inspector General of Police, Bathinda Range, with the allegation in fact raised therein against one Nazar Singh, with no allegation levelled against ASI Amrik Singh.

Learned State counsel on instructions from DSP Sardulgarh submits that however, in view of the fact that the complainant was dealing in cash to the extent of Rs.7,00,000/-, departmental proceedings have been initiated against him and entrusted to the Superintendent of Police, Headquarters.

Learned counsel for the complainant on the other hand submits that though no doubt Section 269 ST of the Income Tax Act, 1961, prohibits transfer of money beyond Rs.2,00,000/- in a single transaction, or in a series of such transactions, without bank instruments, however, since the commission agent of the complainant “had not started implementing the said provision in his own dealings”, the complainant cannot be held responsible for that.

Having considered the aforesaid contentions, without making any final comment on the merits thereof, with the matter already having been made subject matter of the departmental enquiry, it needs to be stated at this stage that simply because any person is not implementing the law as it stands, that does not absolve him of violation of a statutory provision.

As regards the contention of the learned counsel for the petitioner on the last date of hearing, that even ASI Amrik Singh had, in his complaint, stated that Charanjit Kaur in connivance with others had filed an application levelling a false allegation of rape, learned counsel for the complainant as also the State submit that though the aforesaid statement was made by ASI Amrik Singh, factually no written complaint by the petitioner has been found in the office, even after investigation by the SP (Investigation).

Keeping in view the entire circumstances but without making any final comment on the actual merits of the case, for or against the petitioner, which would be subject matter of the investigation, the petitioner is ordered to be enlarged on bail, upon her furnishing adequate bail and surety bonds to the satisfaction of the trial Court.

The petition is allowed as above.

(AMOL RATTAN SINGH)
JUDGE

November 07, 2019
adhikari/atul

Whether reasoned/speaking: Yes/no

Whether reportable: Yes/no