

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

**CRM-M No.25888 of 2020 (O&M)
Date of Decision :03.09.2020**

Imamdin

.....Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR.JUSTICE ARUN PALLI, JUDGE

Present: Mr.Amitabh Tewari, Advocate for the petitioner.
Mr. P.S.Walia, AAG. Punjab, assisted by ASI Paramjit Singh.
Mr. Arshdeep Singh Brar, Advocate for the complainant.
(The aforesaid presence is being recorded through video conferencing
since the proceedings are being conducted in virtual Court)

ARUN PALLI, J. (Oral):

Petitioner prays for an anticipatory bail under Section 438 of Cr.P.C. in FIR No.45, dated 04.08.2020, under Section 379 of IPC, 1860, registered at Police Station Majri, Mohali.

In brief the prosecution version is that present FIR was registered pursuant to a resolution No.1 dated 07.02.2018, passed by the Gram Panchayat Khijrabad. For, the petitioner Imamdin son of Dildar Ali, resident of village Khijrabad had illegally cut 25 trees of Tahli and 10 trees of Neem from the shamlat land and as a result, the gram panchayat suffered a financial loss.

Learned counsel for the petitioner submits that as per the prosecution itself the shamlat land was in actual physical possession of the petitioner. The fact that was duly depicted in the girdawari. And, prior

thereto, the girdawari of the said land was in the name of his father i.e. Dildar Ali and before that in the name of his forefathers for the past 40/50 years. In fact in an injunction suit, filed by the petitioner against the gram panchayat, the Civil Judge (Jr. Divn.), Kharar, vide order dated 25.10.2017, vide an ad interim injunction has restrained the defendants from causing interference in his peaceful possession. The gram panchayat had also filed an eviction petition against the petitioner under the Punjab Public Premises Act, 1973, which was allowed on 24.06.2019, and pursuant where to the petitioner surrendered possession in the year 2020. Further, for, the order of ad interim injunction dated 25.10.2017, was violated the petitioner even moved an application under Order 39 Rule 2-A of CPC against the gram panchayat, which is pending. Thus, he asserts, it was owing to the previous and pending litigation between the parties the gram panchayat has falsely impleaded the petitioner. Significantly, the learned Additional Sessions Judge, vide order dated 17.08.2020, had granted interim bail to the petitioner subject to his joining the investigation. However, subsequently, though the Investigating Officer conceded that petitioner had joined investigation but alleged that petitioner did not cooperate for, he did not disclose the whereabouts of the tractor trolley bearing registration No.CH-01H-8719 upon which he had loaded the tress that were cut. Resultantly, vide order dated 24.08.2020, the bail application of the petitioner was dismissed. He asserts that there exists nothing on record to connect the petitioner with the alleged tractor trolley. Even otherwise it was wholly incredible that petitioner, all by himself, having cut the trees, loaded them on to the trolley and fled from the spot.

At this stage, Mr. P.S.Walia, AAG, Punjab, fairly points out that during investigation it was rather found that the said registration number is of a maruti car and not of any tractor trolley.

In the given circumstances, the petition is accepted. In the event of arrest the petitioner shall be released on bail subject to furnishing personal bonds and surety bonds to the satisfaction of Arresting/Investigating Officer. However, he shall join the investigation as and when required and shall abide by the conditions as envisaged under Section 438 (2) Cr.P.C.

(ARUN PALLI)
JUDGE

03.09.2020
Manoj Bhutani

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No