

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

CRM-M-34136-2020

Date of decision:-28.10.2020

Jaswinder Singh @ Gora Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.PKS Phoolka, Advocate
for the petitioner.

Mr.Amit Mehta, Sr.DAG, Punjab.

H.S. MADAAN, J.

Case taken up through video conferencing.

This petition under Section 438 Cr.P.C. for pre-arrest bail has been filed by the petitioner – Jaswinder Singh @ Gora Singh, aged about 24 years, resident of village Koir Singh Wala, Bathinda, District Bathinda, an accused in FIR No.168 dated 27.11.2019 for the offences under Sections 379, 380, 457 IPC, registered with Police Station Dayalpura, District Bathinda.

As per the prosecution story, the FIR in question was lodged on the basis of statement of complainant Harnek Singh son of Labh Singh, resident of Koir Singh Wala, aged about 55 years, a labourer by occupation, who inter alia stated that he had brought 5 quintals of wood for Rs.3,000/- from the Saw mill and had stored it in his house; on 25.11.2019, he along with his family had gone to visit his relative at

village Khota Guru and when they returned, they found the wood pieces missing; on inquiry being made, he came to know that Harjeet Singh @ Moto, Manpreet Singh @ Mani, Lakhvir Singh @ Kheera and Gora Singh (present petitioner) in connivance with each other had loaded the wood pieces in their vehicle and taken those to village Raunta. According to the complainant, he further came to know that those persons had earlier stolen the batteries of the solar light and transformers from the fields. On the basis of such statement, formal FIR was registered.

Apprehending his arrest in this case, the petitioner had approached the Court of Sessions seeking grant of pre-arrest bail by filing an application, which was assigned to Additional Sessions Judge, Bathinda, wherein the applicant was directed to submit a demand draft in the sum of Rs.4,000/- in favour of complainant with the Investigating Officer. Interim bail was granted to the applicant. This was so done vide order dated 31.1.2020. However, on the adjourned date i.e. 10.2.2020, the Investigating Officer informed that applicant had not joined the investigation. The counsel for the applicant was also not present. Learned Additional Sessions Judge, Bathinda had adjourned the case to 18.2.2020, on which date counsel for the applicant appeared and sought some time for applicant to join the investigation. Taking a lenient view, time was granted fixing the date on 26.2.2020, however, on that date, neither the direction issued by the Court was complied with nor counsel was present. Case was again adjourned to 6.3.2020. However, applicant failed to put in appearance. The applicant had claimed himself to be a juvenile. Proceedings for determination of his age was started by learned

Additional Sessions Judge, Bathinda. First application was disposed of. The second application for pre-arrest bail was filed, which came up before Additional Sessions Judge, Bathinda. In that application, it was contended that applicant could not appear before the Investigating Officer as per directions dated 31.1.2020 passed in the earlier bail application since he was confined in jail at Barnala in case FIR No.27 dated 25.2.2020 under Section 379-B IPC, P.S. Bhadour, District Barnala. Learned Additional Sessions Judge, Bathinda on evaluation of record came to the conclusion that the explanation given by the applicant for not complying with the directions issued by the Court was misconceived because FIR No.27 dated 25.2.2020 was lodged on 25.2.2020, whereas applicant was to comply with the direction within seven days as per order dated 31.1.2020. The applicant had repeatedly failed to appear in the Court and failed to disclose any reason for non compliance of the said order and rather involved himself in another criminal case. Therefore, the application was dismissed vide order dated 25.9.2020. As such, the petitioner has approached this Court asking for similar relief.

Notice of the petition is given to respondent – State. Mr.Amit Mehta, Sr.DAG, Punjab on behalf of respondent – State accepts notice on behalf of respondent – State. He opposes the petition.

I have heard learned counsel for the parties besides going through the records.

Not only the allegations against the petitioner are serious that he along with his co-accused has committed theft of wood pieces from the residential house of the complainant but as noticed by learned Additional

Sessions Judge, Bathinda in his order dated 25.9.2020, the petitioner had failed to comply with the directions issued by that Court repeatedly despite being given several opportunities for that purpose. Such type of person is definitely not entitled to discretionary equitable relief of pre-arrest bail, which is meant to save the innocent persons from harassment and inconvenience and not to enable the criminals to avoid custodial interrogation by the police.

In case of *State represented by the C.B.I. Versus Anil Sharma, 1997(4) R.C.R.(Criminal) 268*, Hon'ble Apex Court had observed that custodial interrogation is qualitatively more elicitation orientated than questioning a suspect who is on anticipatory bail, in a case like this interrogation of suspected person is of tremendous advantage in getting useful informations.

Custodial interrogation of the petitioner is definitely required for complete and effective investigation and to effect the recovery of wood pieces and to find as to how the incident was planned and executed. In case custodial interrogation of the petitioner is denied to the investigating agency that would leave many loose ends and gaps in the investigation affecting the investigation being carried out adversely, which is not called for.

Thus finding no merit in the petition, the same stands dismissed.

28.10.2020
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No