

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M- 35481 of 2020 (O&M)

Date of decision : 3.11.2020

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Kulwant Singh

.....Petitioner

vs.

State of Punjab

.....Respondent

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. Rajender Kumar , Advocate for the petitioners.

Mr. Gaurav Garg Dhuriwala, Senior DAG Punjab.

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H. S. Madaan, J. (Oral)

Case taken up through video conferencing.

This petition under Section 438 Cr.P.C. for grant of pre-arrest bail has been filed by petitioner Kulwant Singh, aged about 50 years son of Bachittar Singh, resident of village Koharwala, Tehsil Kotkapura, District Faridkot, an accused in FIR No. 119 dated 16.9.2020, for offences under Sections 419, 420, 120-B IPC registered at Police Station Sadar Kotkapura, District Faridkot.

Briefly stated, facts of the case, as per the prosecution story are that Kulwant Singh, the present petitioner had himself moved an

application before the Deputy commissioner, Faridkot, seeking action against his real brother Jaswant singh, alleging that Jaswant Singh, posing himself as Kulwant Singh and using his Matriculation certificate, had got job in Home Guard Department on 5.6.1991. Though after serving for 4-5 years, he was suspended by the department but he was re-instated on 22.12.2016 and was presently serving in District Faridkot; so necessary action be taken against Jaswant Singh and the complainant be given job in his place. A similar application was moved by Kulwant Singh before SSP, Faridkot. An enquiry was conducted by DSP, Kotkapura in the matter, wherein it was found that complainant Kulwant Singh alongwith his brother Jaswant Singh had connived with each other, in as much as, Jaswant Singh, posing as Kulwant Singh and using his Matriculation certificate had got job in Home Guard Department; they had entered into an agreement dated 23.1.2017, to the effect that whoever would get the job, will give Rs.8,000/- to the other out of the salary. After Jaswant Singh had got job in Home Guard Department, Punjab, impersonating himself as Kulwant Singh and using his Matriculation certificate, he was paying Rs.8,000/- per month to Kulwant Singh. Formal FIR in the matter was recorded.

Apprehending his arrest in this case, accused -petitioner Kulwant Singh, had approached the Court of Sessions at Faridkot, seeking pre-arrest bail. However, his such application, which was assigned to Additional Sessions Judge, Faridkot, was however, dismissed vide order dated 6.10.2020. Feeling aggrieved, he has

knocked at the door of this Court, craving for grant of similar relief, which prayer is being opposed by the State counsel.

I have heard learned counsel for the petitioner, learned State counsel, besides going through the record and I find that the no case for grant of pre-arrest bail to the petitioner is made out.

Pre-arrest bail is a discretionary relief, which is to be granted in exceptional circumstances and not in routine. It is meant to save the innocent persons from unnecessary police harassment and inconvenience and not to shield the criminals from interrogation by the Investigating Agency. Furthermore the custodial interrogation is more elicitation oriented since a person under the protective umbrella of pre-arrest bail, would certainly not come up with all the facts within his knowledge with regard to the incident.

The allegations against the petitioner are very grave and serious which warrant custodial interrogation of the petitioner, to find out the details as to how the criminal acts were planned and executed, leading to Jaswant Singh getting a job in Home Guard Department, impersonating himself as Kulwant Singh, using his Matriculation Certificate and Kulwant Singh getting a share in the salary from Jaswant Singh. In case the custodial interrogation of the petitioner is denied to the Investigating Agency, that shall leave many loop holes and lacuna in the investigation, adversely affecting the same, which is uncalled for.

Thus keeping in view the gravity and seriousness of offence the petitioner is not entitled to grant of pre-arrest bail and the petition

stands dismissed accordingly.

However, nothing discussed above shall have any bearing on the merits of the case.

3.11.2020
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(H.S. Madaan)
Judge

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