

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

CRM-M-3621-2021

Date of decision:-27.1.2021

Balwinder Singh

...Petitioner

Versus

State of Punjab

...Respondent

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

Present: Mr.Tejinder Pal Singh, Advocate
for the petitioner.

Mr. Saurav Khurana, DAG, Punjab.

Mr.J.S. Mundi, Advocate
for the complainant.

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 – Balwinder Singh, aged about 55 years, resident of village Jalalabad, Tehsil Malerkotla, District Sangrur, an accused in FIR No.259 dated 26.12.2020, under Sections 353, 186, 506 IPC, registered with Police Station Amargarh, District Sangrur.

Briefly stated, the facts of the case as per the prosecution story are that on 5.9.2019, Jaswinder Singh and Mohammad Ashraf, Sevadars (Peons) in the office of Naib Tehsildar, Amargarh went to

village Jalalgarh to get the service of summons effected upon Balwinder Singh son of Jagjit Singh and his son Parminderdeep Singh but the concerned persons did not open the gate of their house, as such, the Sevadars got the summons signed by Sarpanch of the village; on 10.9.2019 those persons came to the Court of Naib Tehsildar, Amargarh in connection with their Lambardari case and Jaswinder Singh, Sevdar asked them to accept the service of summons, however, they tore up the summons, abused and threatened him and obstructed him from performing his duties. On a written complaint submitted to Naib Tehsildar, Amargarh in that regard, which was forwarded to the police, formal FIR in the case was recorded.

Apprehending his arrest in this case, the present petitioner had approached the Court of Sessions seeking grant of pre-arrest bail by filing an application, which was assigned to learned Additional Sessions Judge, Sangrur. However, his such request was declined by learned Additional Sessions Judge, Sangrur vide order dated 15.1.2021. As such, the present petitioner has approached this Court by way of filing the instant petition asking for the similar relief.

Notice of the petition was issued to respondent – State. Mr.Saurav Khurana, DAG, Punjab has appeared on behalf of respondent – State and accepts notice on its behalf. Mr.J.S. Mundi, Advocate has also appeared on behalf of the complainant.

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

Learned counsel for the petitioner has raised various pleas i.e.

there is gross delay in lodging of the incident inasmuch as the incident is said to have taken place on 10.9.2019, whereas the FIR was registered on 26.12.2020; that a false FIR having been got recorded against the petitioner for the reason that they had sought information under RTI Act, 2005 from the office of Naib Tehsildar, Amargarh as regard to one Babanpreet, who in connivance with police having got recorded the present FIR; further stating that petitioner is ready and willing to join the investigation.

However, learned State counsel as well as learned counsel for the complainant have vehemently opposed the request.

Here the allegations against the petitioner are very grave and serious inasmuch as he along with his son not only tore up the summons issued by Naib Tehsildar, Amargarh to them, which Jaswinder Singh, Peon had given to them for the purpose of effecting their service, rather they are said to have abused and threatened Jaswinder Singh, Peon, a public servant and on duty at that time. Such type of acts cannot be taken lightly since if it is so done, then the public servants would definitely feel demoralized and may not be able to perform their duties properly and efficiently. Such type of element, who take law in their own hands and indulge in illegal activities need to be dealt with strictly and firmly so that, the same may act as deterrence to the potential criminals, who may think twice before assaulting public servants on duty and damaging/destroying official documents.

As regards the contention of learned counsel for the petitioner with respect to delay in lodging of the FIR, it has come on record that on

receipt of complaint by Jaswinder Singh, Peon, the matter had been inquired into, opinion of DA(Legal) was obtained and thereafter the FIR was got registered. There was no delay in reporting of the matter by Jaswinder Singh, Peon to his superior official, rather the delay was on account of holding of inquiry to find out the truthfulness of allegations and thereafter taking opinion of DA(Legal) whether any offence was disclosed, if so, which one. Even otherwise, only during the trial, the fact of delay in lodging the FIR can be seen and it can be determined whether petitioner is guilty or has been wrongly involved in this case.

Keeping in view the serious and grievous nature of allegations against the petitioner, no case for grant of discretionary equitable relief of pre arrest bail to the petitioner since is to be granted in exceptional cases and not in routine. It is meant to save the innocent persons from harassment and inconvenience and not to screen the culprits from arrest and custodial interrogation.

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 unfolding the complete story. 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 the petition is doomed for failure and is dismissed accordingly.

27.1.2021
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No