

In virtual Court

CRM-M-9100-2021

-1-

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-9100-2021 (O&M)
Date of decision: 03.03.2021

Lakhwinder Singh

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. B.S. Kathuria, Advocate
for the petitioner.

Mr. Randhir Singh Thind, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for grant of regular bail in FIR No.88 dated 26.08.2020 under Sections 307, 452, 506, 120-B, 436, 427, 353, 186, 447, 332, 511, 148, 149 IPC, registered at Police Station Laddowal, District Ludhiana.

Learned counsel for the petitioner relies upon the order dated 25.11.2020 passed in CRM-M-38988-2020, vide which co-accused Shamsher Singh has been granted the concession of interim anticipatory bail. The operative part of the order reads as under: -

“...Counsel for the petitioner has submitted that as per the version

given by the complainant – Dinesh Kumar, who is posted as Deputy Director in Horticulture Department on 07.08.2020, the possession of some land was handed over by PLDRC Department to Horticulture Department, Punjab, vide a mutation. It is further stated in the FIR that on the date of incident when number of officials of Horticulture Department had gone at the spot for plantation, the petitioner, his brother and some lady members, threatened them by putting some inflammable substance on clothes tied with the sticks and on that pretext, they threatened them to kill, if they do the plantation.

Counsel for the petitioner has further argued that on an earlier occasion, the father and mother of the petitioner namely Hansa Singh and Darshana, were booked in an FIR No.34 dated 09.03.2014 registered under Sections 447, 353, 186, 506 and 34 IPC at Police Station Laddowal, District Ludhiana. The said FIR was got registered by PLDRC Department with the allegation that the parents of the petitioner have forcibly taken physical possession of the property. It is further submitted that during the pendency of the said trial, the father of the petitioner died whereas the mother of the petitioner namely Darshana Kaur, was acquitted by the Court vide judgment dated 17.09.2020 with an observation that the prosecution has miserably failed to prove their case regarding the possession.

Counsel for the petitioner has, thus, submitted that even if there is a transfer of land from PLDRC Department to Horticulture Department, the transferee department could not transfer better rights as were with the department and the dispute regarding the possession is still sub judice before the Civil Court as the brother of the petitioner has already filed a civil suit seeking injunction to restrain the erstwhile owner PLDRC from taking the possession of the property. Counsel for the petitioner has, thus, argued that in the absence of any clear evidence that the complainant's department or the PLDRC Department, was ever in exclusive possession of the land, it will be a debatable issue to be decided during the course of trial whether the offence alleged in the FIR are made out.

Notice of motion for 31.03.2021.”

Learned counsel for the petitioner has argued that as per girdawari (Annexure P-2), father of the petitioner namely Hansa Singh was cultivator of the land in dispute and there is no order of eviction against him. It is further submitted that the petitioner has been falsely implicated in this case in view of the fact that when on an earlier occasion, an attempt was made to dispossess the petitioner and his family members and on 07.08.2020, his sister committed suicide by consuming poison and thereafter, the police did not allow the post-mortem and in presence of number of police officials, her cremation was done forcibly. It is also submitted that the petitioner has already filed CRM-M-

23918-2020, in which following order has been passed on 21.08.2020: -

“Counsel inter alia contends that the possession of the petitioner was interfered with by respondents no. 6 to 12, which led to the petitioner's sister committing suicide. She was admitted in hospital and thereafter forcibly cremated by the officials in the village without any post mortem being conducted in order to hush up her death. In spite of representations dated 17.08.2020 (Annexures P-3 and P-4), no action has been taken against the concerned person.

Notice of motion. Mr. B.S. Sewak, Addl. A.G., Punjab accepts notice on behalf of respondents no. 1 to 5 and 8 to 12 and prays for time.

Adjourned to 24.09.2020, for service of respondents no.6&7.

21.08.2020

(G.S. SANDHAWALIA)
JUDGE”

Learned counsel for the petitioner has further submitted that present incident dated 26.08.2020 has, in fact, been created just to put pressure on the petitioner, as on 21.08.2020, already notice was issued in CRM-M-23918-2020 for taking action against the officials, for forcibly cremating the dead body of sister of the petitioner. It is also submitted that the petitioner is in custody since 03.10.2020 and challan stands presented.

Learned State counsel could not dispute the factual position,

In virtual Court

CRM-M-9100-2021

-5-

however, it is submitted that sister of the petitioner has committed suicide and two persons namely Akash and Devender suffered burn injuries and one Mohd. Aarif has suffered a brick-bat injury.

After hearing learned counsel for the parties, without commenting anything on merits of the case and considering the aforesaid submissions made by learned counsel for the parties, this petition is allowed and the petitioner is directed to be released on regular bail subject to furnishing his bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate, concerned.

Petition is disposed of.

**[ARVIND SINGH SANGWAN]
JUDGE**

03.03.2021
vishnu

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No