

CRM-M No.12796 of 2021
Date of decision: 23.04.2021

Om Parkash

.... Petitioner

Versus

State of Punjab

.... Respondent

Coram: Hon'ble Mr. Justice B.S. Walia

Present : Mr. Priyanshu Kamra, Advocate for the petitioner.
Mr. Sarabjit Singh Cheema, AAG, Punjab.
Mr. Deshpreet Singh, Advocate for the complainant.

B.S. Walia, J. (VC)

1. Case is being taken up for hearing through Video Conferencing due to Covid-19 pandemic.
2. Prayer in the petition under Section 438 Cr.P.C. is for grant of anticipatory bail to the petitioner in case FIR No.174 dated 22.07.2020, registered under Section 379 IPC at Police Station City-I Abohar, District Fazilka, Punjab.
3. On 19.03.2021, the following order was passed:-

“ Case is being taken up for hearing through Video Conferencing due to Covid-19 pandemic.

Learned counsel, inter alia, contends that the petitioner has been falsely implicated in the instant case on account of vindictiveness harbor by his brother due to property dispute by alleging that the petitioner had cut talhi trees from government land and had also caused loss to the green area. Learned counsel contends that there are a number of cases pending between the petitioner and his

brother-complainant and that the petitioner has been framed in the instant case solely with a view to pressurize him to succumb to the illegal demands of his brother in the property dispute between them.

Notice of motion.

Mr. Hittan Nehra, Addl. AG, Punjab, accepts notice on behalf of the respondent, and prays for time to obtain instructions as also to file reply.

Adjourned to 23.04.2021.

In the meantime, the petitioner is directed to join investigation and fully cooperate with the police. However, in the event of arrest, the petitioner be released on ad-interim pre-arrest bail subject to his furnishing bail bonds to the satisfaction of the Arresting / Investigating Officer. The petitioner shall abide by the conditions envisaged under Section 438(2) Cr.P.C., failing which, the interim protection granted to the petitioner, shall stand vacated.”

4. Today, learned counsel for the petitioner contends that pursuant to the order of this Court dated 19.03.2021, the petitioner joined investigation, fully cooperated in the same, was released on ad-interim pre-arrest bail and that his custodial interrogation is not required.

5. Learned counsel for the complainant on the other hand states that FIR was registered against the petitioner for cutting 03 *talhi* trees from government land. He, however, does not dispute that the petitioner is the brother of the complainant and also that there are number of cases pending between the petitioner and the complainant.

6. Learned counsel for the petitioner contends that in the circumstances, it is apparent that the complainant is trying to implicate the petitioner in a false case in order to grind his own axe on account of pendency of number of cases between the brothers.

7. Learned AAG, Punjab, on the other hand on instructions from *ASI Raj Singh*, confirms that pursuant to the order of this Court dated 19.03.2021, the petitioner joined investigation, fully cooperated in the same, was released on ad-interim pre-arrest bail and that in the circumstances, his custodial interrogation is not required.

8. I have considered the submission of learned counsel.

9. Admittedly, the petitioner has been implicated in the instant case on the basis of a complaint made by his brother i.e. the complainant and it is also not disputed that there are number of cases pending between the brothers, therefore, the plea of the petitioner of false implication on a complaint by the complainant i.e. his brother, in order to grind his own axe on account of pendency of number of cases between the brothers, cannot be said to be without any basis.

10. Accordingly, in view of the statement of learned AAG, Punjab, order dated 19.03.2021 passed by this Court, is made absolute. The petitioner shall abide by the conditions enumerated in Section 438(2) Cr.P.C. However, nothing stated herein above shall be taken to be an expression of opinion on the merits of the case.

11. Petition stands ***disposed of*** in the aforementioned terms.

(B.S. Walia)
Judge

23.04.2021