

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-11055-2020 (O&M)

Date of decision: 30.11.2021

Sukhchain Singh @ Chaina

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. A.S. Sekhon, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for grant of anticipatory bail in FIR No.20 dated 20.02.2020 under Sections 406, 427, 506 IPC, registered at Police Station Sadar Faridkot, District Faridkot.

Learned counsel for the petitioner submits that as per allegations in the FIR, registered at the instance of Jagir Kaur, she is widow of one Teja Singh, who died 06 years ago and he, being a member of Pacca Scheduled Caste Coop. Land Owning Society Ltd., was allotted 04 kanals of land. It is further stated in the FIR that the said land was given to petitioner Sukhchain Singh @ Chaina by the complainant on lease for cultivation, as there was no male member in house of the complainant and now the petitioner has neither

paid the lease money nor has vacated the land and has rather cut some trees on the same.

Learned counsel for the petitioner has further submitted that in fact, in the inquiry, it has come that trees were planted by the petitioner and thereafter, the same were cut down by him and possession of the land, as per the FIR, was given to the petitioner by complainant Jagir Kaur for the purpose of cultivation. It is thus submitted that it is a civil dispute, which has been given the colour of criminal litigation.

Learned counsel has next submitted that this petition is pending since March, 2020 and despite taking number of dates, neither the investigation is complete nor the petitioner was arrested. It is also submitted that both the disputes regarding handing over possession of land to the complainant or recovery of the lease money is to be dealt with by the Civil Court, as the petitioner is not in illegal possession of the land, as its inception was legal, as per allegations in the FIR.

Short reply by way of affidavit of Deputy Superintendent of Police, Sub Division, Faridkot is on record.

Learned State counsel, on the basis of this affidavit, has submitted that complainant Jagir Kaur, on earlier occasions, had given some representations, which were got inquired into through the then SHO, Police Station Sadar Faridkot and it was found that total 13 trees were cut down. It is further stated that after registration of the FIR, investigation was carried out and witnesses from the village were summoned and their statements were recorded. During the inquiry, the petitioner produced an agreement to sell executed by

late Teja Singh regarding 04 kanals of land for a sum of Rs.10,000/- and put him in possession of the land. It is also stated that the land belongs to Scheduled Caste Coop. Society and late Teja Singh was a member of the said Society.

After hearing learned counsel for the parties, considering the allegations in the FIR as well as affidavit of the DSP, it appears to be a civil dispute regarding taking back possession of the land and it is not for the police to decide whether possession of the petitioner on the land in dispute is legal or illegal, as the same can be decided in the appropriate proceedings before the Civil/Revenue Court.

Accordingly, this petition is allowed and the petitioner is granted the concession of anticipatory bail subject to the conditions envisaged under Section 438 (2) Cr.P.C.

[ARVIND SINGH SANGWAN]
JUDGE

30.11.2021
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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No