

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

204)

CRM-M- no.22280 of 2021

Date of Decision: 14.07.2021

Paramjeet Singh @ Paramjit Singh @ Goldy
Versus

...Petitioners

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Mr. Akbarjit Singh, Advocate, for the petitioner.
Mr. Sidakmeet Singh, AAG, Punjab.
Mr. Yaseen Sethi, Advocate, for the complainant.

Amol Rattan Singh, J. (Oral)

Case heard by way of video conferencing.

By this petition, filed under the provisions of Section 438 of the Cr.P.C., the petitioner seeks to be admitted to anticipatory bail, upon FIR no.0094, dated 09.05.2021, having been registered at Police Station Division No.5, Jalandhar, alleging therein the commission of an offence punishable under the provisions of Section 436 of the IPC.

On June 29, 2021, the following order had been passed:-

“Case heard via video conferencing.

“By this petition, the petitioner seeks the concession of 'anticipatory bail' under the provisions of Section 438 of the Cr.P.C., upon FIR no.0094, dated 09.05.2021, having been registered at Police Station Division no.5 Jalandhar, alleging therein the commission of an offence punishable under Section 436 of the IPC.

Learned counsel for the petitioner first submits that even as per the FIR there is not even a single witness to the alleged occurrence of the petitioner setting the house of the complainant on fire and it is in fact only as a counter blast to the FIR registered at the instance of the petitioner against the brother of the complainant and others, alleging therein that the complainants' brother had enticed away/kidnapped the petitioners'

daughter.

He next submits that not even the cause of the fire has been investigated by the police to the best of the petitioners' knowledge, i.e. as to whether it occurred due to any short-circuit or some other fault etc., with there being no direct link at all to the petitioner having caused the fire; and he has been roped in simply because as per the complainant he had motive to do so.

It is to be observed here that notice of motion in this case was issued on 04.06.2021, but on query to learned State counsel even today he has no instructions as to whether any investigation was done by the police with regard to there being a possible short-circuit etc. that caused the fire in the absence of the complainant and others from their home (as is stated even in the FIR).

Learned State counsel submits that the petitioner not having joined investigation, no proper investigation could be done.

The stand of the State is rather surprising, inasmuch as no person is required to be arrested to make any basic investigation as to the cause of the fire, i.e. as to whether it was possibly caused by any electric short-circuit etc.

Consequently, not even that much investigation having been done (or at least no such investigation having been conveyed to learned State counsel), the Commissioner of Police, Jalandhar, is himself directed to file an affidavit as to why not even basic investigation has been done since the date of the registration of the FIR, i.e. 09.05.2021 (about 1½ months ago now).

Counsel for the petitioner has also referred to the delay in lodging the FIR.

Learned counsel for the complainant on the other hand submits that the delay in lodging the FIR was because the complainant himself was not fully certain as to whether the fire was caused due to any other reason (other than the petitioner having caused it), and upon him satisfying himself that it was the petitioner who did so, that an FIR was then lodged. (Whether or not learned counsel submits that on instructions or otherwise, is not clear from the query put to him).

It is made clear that, in the circumstances of the case, there is no interim order operating in favour of the petitioner as yet, with learned State counsel also submitting that there are several other criminal cases registered against the petitioner.

It is to be observed here that simply there being other cases registered against the petitioner would be no ground to actually deny him bail in any particular instance, but looking at the fact that there may have possibly a motive, which is the stand taken by the State so far, interim bail is not being granted at least at this stage.

If the affidavit is not filed, the Commissioner of Police, Jalandhar, shall be summoned to court immediately thereafter.

Adjourned to 14.07.2021.”

Pursuant thereto an affidavit of the Commissioner of Police, Jalandhar, dated 12.07.2021, has been filed, which is ordered to be taken on record along with the annexures annexed therewith.

As per the said affidavit, upon the complaint made by the complainant before the police with regard to his house having been set on fire, in fact other than taking photographs of the premises and taking samples of burnt material from the spot, on 30.05.2021 a letter was also written to the Punjab State Power Corporation Limited, as to whether the fire could have taken place due to any electricity short circuit, in response to which the Executive Engineer (Technical-I), PSPCL, Jalandhar, responded vide his letter dated 24.05.2021 (copy Annexure R-4), stating that there had been no sign of any sparking and therefore the fire had not occurred due to a short circuit.

Thus, obviously, contrary what the learned counsel for the petitioner had contended on 29.06.2021, the aspect of the possibility of the fire having occurred due to a short circuit had been duly inquired into by the investigating agency, which is obviously to be appreciated.

Other than that, the affidavit of the Commissioner of Police states that upon the material collected from the spot having been sent to the

forensic science laboratory for analysis, a report dated 06.07.2021 was received, stating to the effect that no petroleum product could be detected in the articles.

Other than that, the Commissioner has also referred to statements shown to have been made by a person (Nawab Ahmed) who is stated to have been a tenant in the house of the complainant, a copy of the said statement dated 16.05.2021 having been annexed as Annexure R-5 with the affidavit.

As per the said statement, he was residing on the first floor of the house of Rahish Ahmed @ Saleem (stated to be the father of the complainant and owner of the property in question), and that on 24.04.2021 at about 11.00 a.m. when he, along with his family members was present there (along with the family of one other person), the petitioner knocked his house and threatened him that he should vacate the house/room, failing which he would set the room on fire.

Consequently, the said person is stated to have vacated the room the next day itself.

The next statement is of one Kaka (referred to earlier in the statement of Rahish Ahmed as the person with whose family he was sitting), stating to the effect that he too was residing on rent in the first floor of the house of Rahish Ahmed and that when he came back home on 24.04.2021, his wife told him that the petitioner had threatened the neighbour to vacate the room, upon which he arranged another room and started living there.

Finally, it has been stated that to investigate the matter thoroughly, a special investigating team headed by an Addl. Deputy

Commissioner of Police had been constituted.

Learned counsel for the petitioner firstly submits that the entire evidence against the petitioner is only on the basis of suspicion, as his daughter had got married to the brother of the complainant against the wishes of the petitioner, and that no person at all had seen him actually setting the house on fire and consequently, simply because there was no short circuit as per the affidavit of the Commissioner, there would be no reason to deny him the concession of bail.

Having considered the matter (including the fact that in the FSL report referred to by the Commissioner, no petroleum product was found on the material send for analysis), for the purpose of this petition filed under the provisions of Section 438 of the Cr.P.C., I do not think the petitioner deserves the concession of anticipatory bail, especially looking at the statement of the aforesaid Nawab Ahmed and Kaka son of Deen Dayal, with the matter obviously required to be investigated thoroughly, the house of a person having been set on fire (as alleged).

Consequently, this petition is dismissed, with it made absolutely clear that none of the observations made hereinabove or in any previous order, shall be taken to be an observation on the actual merits of the case, all such observations having been made wholly in the context of a petition by which the petitioner seeks the concession of anticipatory bail.

Learned counsel has also argued that the statements of the aforesaid Nawab Ahmad and Kaka cannot be accepted, they being interested witnesses, as tenants of the landlord and therefore obviously they would be under his influence.

Even having considered that argument, it is repeated by this court that this is a petition by which the petitioner seeks to be admitted to anticipatory bail and in the entire circumstances as enumerated above, I do not think he is entitled to that concession, though of course whether or not those statements eventually hold any evidentiary value, would be seen by the investigating agency and the trial court (if it comes to that stage).

14.07.2021
vcgarg

(AMOL RATTAN SINGH)
JUDGE

Whether reasoned/speaking: Yes
Whether reportable: Yes