

CRM-M-21206-2020

Date of Decision:06.01.2021

Hakam Singh

.....Petitioner

Vs.

State of Punjab

....Respondent

CRM-M-33736-2020

Pushpinder Singh and others

.....Petitioners

Vs.

State of Punjab and another

....Respondents

CORAM : HON'BLE MR.JUSTICE AMOL RATTAN SINGH

Present: Mr. Ashok Paul Batra, Advocate,
for the petitioner in CRM-M-21206-2020.

Mr. Tejwinder Singh Gill, Advocate,
for the petitioners in CRM-M-33736-2020.

Mr. Sandeep Kumar, DAG, Punjab.

AMOL RATTAN SINGH, J. (Oral)

Case heard by video conferencing.

Of these two petitions, CRM-M-21206-2020, is one by which the petitioner is seeking the concession of 'anticipatory bail' under the provisions of Section 438 Cr.P.C., upon FIR No.129, dated 08.06.2020, having been registered at Police Station City-1, Abohar, District Fazilka, alleging therein the commission of offences punishable under Sections 406, 420 and 120-B of the IPC.

On July 31, 2020, the following order had been passed by this court in the said petition:-

“Learned counsel for the petitioner *inter alia* contends that the main accused in the present case are his sons namely Pushpinder Singh and Jaswinder Singh who were running the shop in question and the petitioner has been falsely implicated only on account of he being their father; the petitioner is over 80 years of age; he is a heart patient and to show his bona fide he is willing to deposit the disputed amount i.e. Rs.90,000/- with the Trial Court to be disbursed as per the final orders to be passed in the trial.

Notice of motion.

Mr. J.S. Ghumman, DAG, Punjab accepts notice on behalf of the respondent-State and Mr. K.S. Mann, Advocate puts in appearance on behalf of the complainant.

For arguments, adjourned to 23.09.2020.

In the meanwhile subject to the petitioner making a deposit of the above said amount and joining investigation as and when called by the investigating agency as also abiding by the other conditions provided under Section 438 (2) Cr.P.C, in the event of his arrest in FIR No.129 dated 08.06.2020 registered under Sections 406, 420, 120-B of IPC at Police Station City-1 Abohar, District Fazilka he shall be released on ad interim anticipatory bail to the satisfaction of the Arresting Officer.

In case, the above deposit is made by the petitioner, the trial Court shall convert the same in a fixed deposit and continue to extend the period of deposit till the end of the trial.”

Thereafter, on September 23, 2020, the following 'effective' order

had been passed, reproducing before that the order already passed on July 31, 2020:-

“Today, learned State counsel submits that as per his instructions the petitioner has not joined investigation.

Learned counsel for the petitioner, however, submits that the petitioner has not been in touch with either him or the counsel who appeared for him before the trial court and therefore, he has no comment to make at all.

He however still points to the age of the petitioner, i.e. 80 years (as recorded in the last order, on the contention of learned counsel appearing for the petitioner).

Without making any comment on the actual merits of the case, simply keeping in view the age of the petitioner, the matter is adjourned to 29.10.2020, with a direction issued that the petitioner, looking at his age as disclosed, be not arrested till the next date of hearing.

A gazetted officer is directed to file an affidavit in response to the petition, giving therein any role of the petitioner in the actual occurrence, i.e. other than the role of his son, Pushpinder Singh.

The actual age of the petitioner and the details of any other criminal case registered against him, shall also be disclosed in the affidavit to be filed.”

Thereafter, on 29.10.2020, the following 'effective' order was passed (after reproducing the previous two orders):-

“Mr. Nehra submits that a reply has been received by him, stating to the effect that though the petitioner is about 80 years of age, however, he is a jeweller who has duped the complainant in the FIR and, as per his oral instructions, has also duped various other persons.

However, the fact of him having duped other persons is not given in the reply of the DSP, Sub-Division Abohar.

Mr. Batra submits that the petitioner has now contacted him to submit that the matter has been compromised with the complainant.

Without making any comment on the correctness of that contention at this stage, a copy of the compromise deed would be shown to the investigating officer upon the petitioner joining investigation within one week, and upon him doing so if he is sought to be arrested, he would be released on bail, on his furnishing adequate bail and surety bonds to the satisfaction of the arresting officer/Ilaqa Magistrate.

He shall, further, abide by all the conditions stipulated in Section 438 (2) of the Cr.P.C.

If the arresting officer does not join the petitioner in investigation, he would appear before the learned Ilaqa Magistrate immediately, who would then summon the arresting officer and direct him to join him in investigation.

The reply received by Mr. Nehra shall not be filed immediately because the DSP will file a better affidavit also giving therein details of any other complaints received against the petitioner.

It is also made absolutely clear that if a copy of the compromise deed is not presented to the investigating officer within one week from today, the interim order passed in favour of the petitioner shall stand immediately vacated.

Adjourned to 12.11.2020.”

Today again, no such compromise deed has been brought to notice of this court, with Mr. Batra simply submitting that in fact a petition had been filed in the meanwhile seeking quashing of the FIR on the basis of the compromise reached.

That is the other petition listed today bearing CRM-M-33736-2020, in which the following order was passed on 23.11.2020:-

“All cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the Covid-19 pandemic.

This petition has been filed seeking quashing of FIR No. 0129 dated 08.06.2020, registered for the alleged commission of offences punishable under Sections 406 and 420 of the IPC read with Section 120-B thereof, at Police Station City-1 Abohar, District Fazilka, as also all other subsequent proceedings arising therefrom, on the basis of a compromise arrived at between the petitioners and respondent no 2. A copy of the compromise deed has been annexed as Annexure P-2 with the petition.

Notice of motion.

On the asking of the court, Mr. Hittan Nehra, D.A.G., Punjab, accepts notice on behalf of respondent no. 1.

A copy of the petition be emailed to learned State counsel by learned counsel for the petitioner today itself.

Respondent no. 2 be served by way of normal process by the next date of hearing.

Adjourned to 06.01.2021.

In the meanwhile, the petitioners as also respondent no. 2, would appear before the learned Area Magistrate up-to 09.12.2020 to record their statements. That court would satisfy itself with regard to the authenticity of the compromise reached and the fact that it has been arrived at without any kind of undue influence or pressure, and would thereafter send its report to this Court, before the next date of hearing.

The Area Magistrate would also verify whether there is any other person involved in the occurrence, who is not a party to the present petition and whose consent for the compromise would be required, if this court comes to the conclusion that the FIR sought to be quashed can be so quashed.

Learned State counsel would also determine as to whether any other criminal cases, of like nature or otherwise, are pending against the petitioners.

To be heard along with **CRM-M-21206 of 2020.**”

Pursuant to that order a report of the learned Sub Divisional Judicial Magistrate, Abohar, dated 04.01.2021, has been received, stating to the effect that “the parties” did not appear before that court to record any statement in terms of the compromise reached between them.

Learned counsel for the petitioner in this petition submits that as a matter of fact the petitioner has met with an accident and is being operated in the PGI, Chandigarh, due to which he could not appear.

However, the report of the Registry is to the effect that even the process fee was not filed to enable issuance of notice to respondent no.2, i.e. the complainant in the FIR.

Hence, I would see absolutely no reason to continue with either of these two petitions, in the first of which, i.e. CRM-M-21206-2020, the petitioner never joined investigation since, very obviously, there seems to be no genuine compromise reached between the parties, which is why he and the complainant did not appear before the trial court also in the context of the other petition i.e. CRM-M-33736-2020, to record their statements in terms of any such compromise.

Again very obviously, it would seem that the petitioner is simply trying to take the court for a ride.

Consequently, with no comment made on the actual merits of the case and it to be observed that the petitioner had been ordered not to be arrested (in the petition seeking anticipatory bail, i.e. CRM-M-21206-2020), only on account of his age (stated to be 80 years), despite the fact that even earlier learned State counsel had stated that the petitioner had not joined investigation pursuant to the initial interim order passed in his favour, both petitions are hereby dismissed.

The interim order passed in favour of the petitioner in CRM-M-21206-2020, stands vacated.

January 06, 2021
dharamvir

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned : YES/NO
Whether Reportable : YES/NO