

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(202)

CRM-M-21383-2019

Date of Decision : September 14, 2021

Heera Batra

.. Petitioner

Versus

State of Punjab

.. Respondent

(Through Video Conferencing)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: None for the petitioner.

Mr. Sandeep Singh Deol, Deputy Advocate General, Punjab.

Mr. D.K. Bhatti, Advocate, for the complainant.

Mr. Gulam Nabi Malik, Advocate,
for the respondent-Punjab Wakf Board.

HARSIMRAN SINGH SETHI J. (ORAL)

The petitioner is seeking anticipatory bail in FIR No.145 dated 04.08.2018 registered under Sections 406, 420 and 120-B of the Indian Penal Code at Police Station Division No.3, Jalandhar.

A Coordinate Bench of this Court has passed the following order on 28.05.2019:-

“Learned counsel for the petitioner submits that the allegation in the FIR, qua sale of property by cheating the complainant, is not against the petitioner; rather the same is against one Ajit Singh and others. It is further submitted that although the petitioner had taken the property on lease from Punjab Wakf Board, however, even if the case of the complainant is taken on its face value, still the allegation

against the petitioner is only qua taking away goods of the complainant from the first floor of the said property. The complainant himself has claimed the value of the said goods to be Rs.13 lakhs approximately. The petitioner is ready to deposit the amount of Rs.13 lakhs with the trial Court; in the form of Fixed Deposit, subject to his rights qua this amount at the time of conclusion of the trial of this case, if any.

Learned counsel for the complainant, on instructions from the complainant, who is present in the Court, submits that subject to his rights during the trial, even the complainant does not have any objection qua the proposal made by counsel for the petitioner. It is further submitted that it may also be stipulated that in case the petitioner is convicted ultimately; then the amount deposited by the petitioner shall be disbursed to the complainant.

Mr. Ghulam Nabi Malik, Advocate appearing on behalf of the Punjab Wakf Board, on instructions from Mr. Shumbai Ahmed Parray, Chief Executive Officer of the Board, who is present in the Court pursuant to the previous order of this Court, submits that the petitioner was given the said property on lease. However, since the petitioner raised constructions on the property without permission of the Board, therefore, after giving him a due notice, the said lease in favour of the petitioner already stand cancelled. It is further submitted that further proceedings for getting the property vacated from the petitioner is being undertaken in its right earnest. In any case, the process of taking the possession from the petitioner shall be completed within a period of three months.

In view of the above, it would not be unjustified to grant interim protection to the petitioner against his arrest subject to his depositing the amount as undertaken above by him.

Accordingly, it is ordered that in case the petitioner submits to the Investigating Officer a Fixed Deposit, for an amount of Rs.13 lakhs in the name of the concerned Chief

Judicial Magistrate, then the petitioner shall be released on interim bail in case of his arrest in this case, on his furnishing bonds/ sureties to the satisfaction of the Arresting Officer. The petitioner shall also comply with the conditions as prescribed under Section 438(2) Cr.P.C.

The Investigating Officer shall submit the said FDR to the concerned CJM, who shall get it renewed from time to time till conclusion of the proceedings of trial. On conclusion of the trial, the principle amount of FD shall go to the petitioner or to the complainant as per the result of trial and the interest earned on this FD shall go to the government treasury as costs.

Adjourned to 12.09.2019.

The Chief Executive Officer of the Board is directed to file the status report regarding the eviction of the petitioner from the property; on or before the next date of hearing.”

Learned State counsel, who has also joined the proceedings through video conference, on instructions from ASI Satpal Singh, states that the condition imposed by this Court has already been complied with by the petitioner by depositing an amount of Rs.13 lacs and the petitioner has joined the investigation and no further interrogation of the petitioner is required at this stage.

In view of the above, the order dated 28.05.2019 granting interim bail to the petitioner is made absolute.

It is made clear that the renewal of the FDR of Rs.13 lacs will be done by the authorities as per the order dated 28.05.2019.

It is further made clear that with regard to the eviction of the petitioner from the property concerned, the Wakf Board as well as the complainant will be at liberty to avail appropriate remedy as envisaged

under law.

However, the petitioner shall abide by the conditions stipulated under Section 438(2) Cr.P.C. He shall also join investigation as and when called upon to do so.

In case at any given point of time hereinafter, it is felt by the investigating agency that petitioner is required for the investigation but is not cooperating, they will be at liberty to approach this Court for passing appropriate orders.

The petition stands disposed of.

September 14, 2021
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No