

CRM-M-36501-2021

Date of Decision: 16.11.2021

Ravinder Singh

.....Petitioner

Vs.

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Umesh Aggarwal, Advocate, for the petitioner.

Mr. Rana Harjasdeep Singh, D.A.G., Punjab.

Mr. Ashish Aggarwal, Advocate, for the complainant.

AMOL RATTAN SINGH, J. (ORAL)

On 06.09.2021, the following order had been passed by this court:-

“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 the concession of anticipatory bail, upon FIR no.18, dated 03.02.2021, having been registered at Police Station ‘C’ Division, Amritsar, alleging therein the commission of offences punishable under Sections 420/465/467/468/471/120-B of the IPC.

Upon this court observing that the petitioner is actually not named in the first part of the FIR and has been shown subsequently in the inquiry proceedings along with the FIR, wherein he is shown to be the father of the prime accused, Rajbir Singh, learned counsel submits that as a matter of fact his name has been wrongly written as Varinder Singh in the initial part of the FIR, whereas correctly it should have been Ravinder Singh.

That being so, it is also seen that he has also been named as “Billa Taxi Wala”, who allegedly was present at the time when Rs.5 lacs out of the total amount was paid; and who also allegedly told the complainant that his son had got many other persons appointed in (Government) jobs earlier also and that he need not worry.

Learned counsel for the petitioner submits that that being the only allegation against the petitioner, he has been roped in being the father of the main accused and further, in any case in terms of the second proviso to sub-section (1) of Section 8 of the Prevention of Corruption Act, 1988 (as amended upto date), the person compelled to give undue advantage to another person/persons to reward such public servant from the improper performance of the public duty, must report such occurrence within a period of 7 days from it taking place.

Whereas it would be completely doubtful as to whether, in the circumstances as given in the FIR, the complainant can be said to have been compelled to give money, he seemingly (at least at this stage), having willingly given it to obtain a ‘Government’ job illegally, yet, a reply would need to be filed by a senior gazetted officer as to whether any offence is made out against the complainant himself, under the provisions of that Act or to otherwise.

Consequently, notice of motion is issued to the respondent State, with Mr. H.S. Multani, learned AAG, Punjab, accepting notice at the asking of the court.

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

Adjourned to 22.09.2021.

A person of the rank of a Deputy Commissioner of Police will file an affidavit in reply to the petition, answering the queries of this court.

It is made clear that there is no interim order operating in favour of the petitioner at this stage.

It is to be noticed that Mr. Ashish Aggarwal, learned counsel for the complainant, appears and submits that in fact Rs.5 lacs was handed over to the petitioner himself in the presence of his son, Rajbir Singh, who is the prime accused.

No comment is made at this stage on that contention, till at least an affidavit of the DCP is filed.”

Thereafter, with no reply having been filed on behalf of respondent-State, on 22.09.2021 the petitioner was directed to join investigation and if upon so joining in case he was sought to be arrested, he was ordered to be admitted to bail.

Now an affidavit of the Deputy Commissioner of Police, Detective, Amritsar, dated 21.09.2021, has been filed, which is ordered to be taken on record.

Learned State counsel draws attention to the fact that other than the allegations against the petitioners' son for taking a large amount of money from the complainant on the pretext of getting him a job in the Excise and Taxation Department, the petitioner had also allegedly taken Rs. 5,00,000/- from the complainant.

Other than that allegation, the petitioner is also alleged to have told the complainant that his son (Rajbir Singh) had arranged such jobs for many persons.

Other than that allegation there is not shown to be any evidence so far, linking the petitioner to the payment of money, though his son is stated to have even issued cheques in the sum of Rs. 30,00,000/- each to the complainant, which were subsequently dishonoured, with such cheques having been issued allegedly to repay the amount paid by the complainant.

It is to be noticed by this court that the petitioner's son had filed CRM-M-43881-2021, which counsel for the petitioner in that case has withdrawn this morning, with the oral prayer made by counsel for that petitioner, that he may be allowed to file a similar petition before the learned trial court, having been denied by this court, with the order allowing withdrawal of the petition (without any condition), having been ordered to be conveyed to the trial court immediately.

In view of the entire circumstances, including specifically what is alleged against the present petitioner, i.e. Ravinder Singh, without making any comment on the actual merits of the case, this petition is allowed with the order dated 22.09.2021 made absolute.

November 16, 2021
nitin

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes
No.