

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

104

CRM no.30961 of 2021 and
CRM-M-36452 of 2021 (O&M)
Date of decision:13.10.2021

Raghveer Singh

... Petitioner

versus

State of Punjab and another

... Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH.

Present: Mr.Baljeet Beniwal, Advocate,
for the petitioner
Mr.Ramdeep Partap Singh, DAG, Punjab
Mr.S.S.Sharma, Advocate,
for respondent no.2.
...

AMOL RATTAN SINGH, J. (Oral)

Case heard via video conferencing.

On 3.9.2021, the following order had been passed by this
court:-

“Case heard via video conferencing.

*Vide this petition, the petitioner seeks the concession of
'anticipatory bail' under the provisions of Section 438 of the
Cr.P.C., upon FIR no.21, dated 09.03.2021, having been
registered at Police Station Moonak, District Sangrur, alleging
therein the commission of offences punishable under Sections
420 and 120-B of the IPC.*

Learned counsel for the petitioner submits that the petitioner had been admitted to interim bail by the learned Addl. Sessions Judge, Sangrur, vide his order dated 03.05.2021, and though the petitioner had gone to join investigation, with the investigating officer having made a statement before that court on 10.05.2021 that the petitioner had not joined investigation, that petition was dismissed.

He submits that as a matter of fact only an amount of Rs.2,00,000/- by way of installments is still left to be paid to the finance company concerned and that the petitioner is willing to pay it within a period of 10 days.

Though otherwise I would not have been inclined to admit the petitioner to even interim bail in view of the fact that it is his employee that he is alleged to have duped, who would obviously not a very rich man (he having been employed as a driver with the petitioners' school), but since the petitioner is willing to pay the entire amount back, notice of motion is issued, with Mr. Rana Harjasdeep Singh, learned DAG, Punjab, accepting notice at the asking of the court.

The complainant in the FIR, i.e. Harpal Singh son of Hardev Singh, is ordered to be impleaded as respondent no.2 in the petition, with the Registry directed to carry out the necessary correction in the memo of parties, after taking his particulars from the FIR itself (copy Annexure P1).

Notice of motion is issued to respondent no.2 also, returnable on 13.09.2021.

Since he may not be in a position to engage a counsel himself, the Registry is directed to immediately appoint a legal aid counsel to appear on his behalf on the next date of hearing itself.

In addition to notice to be issued by normal process, respondent no.2 shall also be served of the notice issued, alongwith this order, through the SHO, Police Station Moonak, where the FIR stands registered, with learned State counsel to inform the SSP, Sangrur, and the SHO accordingly.

Till the next date of hearing only and specifically, the petitioner be not arrested, subject to him depositing the entire amount as is due from respondent no.2, with the Registry of this court by the next date of hearing.

It made clear that any request for an adjournment made by counsel for the petitioner on the next date of hearing, or any non-payment of the amount due to the finance company on behalf of respondent no.2, would result in immediate vacation of the interim order and dismissal of this petition.

To be shown in the urgent motion list.”

Thereafter on 13.9.2021 and 21.9.2021, the following orders had been passed:-

Order dated 13.9.2021

“Case heard by way of video conferencing.

On 03.09.2021, the following order had been passed:-

“Case heard via video conferencing.

Vide this petition, the petitioner seeks the concession of 'anticipatory bail' under the provisions of Section 438 of the Cr.P.C., upon FIR no.21, dated 09.03.2021, having been registered at Police Station Moonak, District Sangrur, alleging therein the commission of offences punishable under Sections 420 and 120-B of the IPC.

Learned counsel for the petitioner submits that the petitioner had been admitted to interim bail by the learned Addl. Sessions Judge, Sangrur, vide his order dated 03.05.2021, and though the petitioner had gone to join investigation, with the investigating officer having made a statement before that court on 10.05.2021 that the petitioner had not joined investigation, that petition was dismissed.

He submits that as a matter of fact only an amount of Rs.2,00,000/- by way of installments is still left to be paid to the finance company concerned and that the petitioner is willing to pay it within a period of 10 days.

Though otherwise I would not have been inclined to admit the petitioner to even interim bail in view of the fact that it is his employee that he is alleged to have duped, who would obviously not a very rich man (he having been employed as a

driver with the petitioners' school), but since the petitioner is willing to pay the entire amount back, notice of motion is issued, with Mr. Rana Harjasdeep Singh, learned DAG, Punjab, accepting notice at the asking of the court.

The complainant in the FIR, i.e. Harpal Singh son of Hardev Singh, is ordered to be impleaded as respondent no.2 in the petition, with the Registry directed to carry out the necessary correction in the memo of parties, after taking his particulars from the FIR itself (copy Annexure P1).

Notice of motion is issued to respondent no.2 also, returnable on 13.09.2021.

Since he may not be in a position to engage a counsel himself, the Registry is directed to immediately appoint a legal aid counsel to appear on his behalf on the next date of hearing itself.

In addition to notice to be issued by normal process, respondent no.2 shall also be served of the notice issued, alongwith this order, through the SHO, Police Station Moonak, where the FIR stands registered, with learned State counsel to inform the SSP, Sangrur, and the SHO accordingly.

Till the next date of hearing only and specifically, the petitioner be not arrested, subject to him depositing the entire amount as is due from respondent no.2, with the Registry of this court by the next date of hearing.

It made clear that any request for an adjournment made by counsel for the petitioner on the next date of hearing, or any non-payment of the amount due to the finance company on behalf of respondent no.2, would result in immediate vacation of the interim order and dismissal of this petition.

To be shown in the urgent motion list.”

Today, in response thereto, Mr. Shashank Sehkhari Sharma, Advocate, who is on the legal aid panel of the High Court Legal Services Committee, appears for the complainant and submits that the petitioner has not complied with the order dated 03.09.2021.

Upon query to the learned counsel for the petitioner, he submits that the petitioner being in a financial crunch, he could not do so.

Upon it being pointed out to him that before this court directed that the entire amount as is due from the petitioner to the Finance Company/complainant be deposited with the Registry, it was counsels' statement himself, as has been recorded to that effect, that Rs.2 lacs would be paid by the petitioner, learned counsel submits that the petitioner would deposit the entire amount within a period of two months if he is given time to deposit it in installments.

Learned counsel for the complainant submits that a total amount of Rs.5,50,000/-lacs is due from the petitioner, of which

an amount of Rs.2 lacs is due to the complainant, with the remaining amount due to the company as had financed the bus in question, i.e. M/s Mahindra and Mahindra Finance, the bus having been purchased by the petitioner in the name of the complainant, who was employed as his driver.

Simply keeping in view at this stage that the petitioner is willing to pay the amount in installments, with learned counsel appearing for him stating that he would pay Rs.50,000/- within one week, adjourned to 21.09.2021, with Rs.50,000/- to be paid by the petitioner by way of a demand draft in favour of the complainant (Harpal Singh son of Hardev Singh).

The interim order would continue to operate in his favour till the next date of hearing only and specifically.

To be shown in the urgent motion list.

The complainant shall also file a short affidavit annexing therewith the terms of the loan as was sanctioned in his favour by M/s Mahindra and Mahindra, showing therein the EMIs to be paid and any letter from the company stating therein as to how much is still due to him.”

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Order dated 21.9.2021:-

“CRM no.30961 of 2021

Vide this application, the complainant-respondent no.2 seeks to place on record a loan statement in respect of the loan

in question.

Notice in the application.

Mr. Ajay Dahiya, Advocate, appears and accepts notice on behalf of the non-applicant petitioner.

He would go through the application and file a reply (if necessary) before the next date of hearing.

CRM-M-36452 of 2021

Case heard by way of video conferencing.

Though learned counsel for the petitioner submits that a demand draft of an amount of Rs.50,000/- has been paid to the complainant, learned counsel appearing for the complainant submits that he spoke to the complainant just a short while ago and he denied having received any such demand draft; and further, he submits that there is no settlement with the finance company, i.e. M/s Mahindra and Mahindra Finance, because if that were so, he would have known of the same, he being the person to whom the loan had been advanced, with the petitioner having used him, the petitioner being his employer.

The matter shall be taken up at 3.30 p.m. today, by which time, it is expected that the petitioner will personally go and hand over a demand draft of Rs.50,000/- at the village of the complainant, or at any place that they mutually fix, failing which the petition would be liable to be dismissed.

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The matter having been again taken up at 3.30 p.m, learned counsel for the petitioner submits that though the petitioner went to hand over the demand draft to the complainant, he refused to accept it, with him also not accepting the fact that in fact a settlement has been arrived at with the company, i.e. M/s Mahindra and Mahindra Finance, for an amount of Rs.3.45 lakhs (to be paid by the petitioner to the said company).

Learned counsel for the complainant however denies that the petitioner at all came to the complainant to deposit the demand draft.

That being so, the petitioner is directed to appear before the learned Area Magistrate, Moonak, on 24.09.2021 at 11.00 a.m. to deposit the demand draft as is stated to have been issued in favour of the complainant (Harpal Singh), on that date itself; with him to also take along with him an authorized representative of the branch of M/s Mahindra and Mahindra Finance, from where the loan amount had been sanctioned to the complainant.

Upon doing that, the learned Area Magistrate would record the statements of the petitioner, the complainant and of the authorized representative of M/s Mahindra and Mahindra Financial Services Limited, Ground Floor, Garg Plaza, Jakhal Road, Patran NP, Punjab, as to any settlement reached

between them.

That court thereafter would send a report to this court with regard to the aforesaid, as also the fact as to whether the demand draft for an amount Rs.50,000/- has in fact been deposited with that court in favour of the complainant, Harpal Singh. The date of the demand draft shall be specifically mentioned by the Area Magistrate, for this court to determine as to whether the demand draft was actually prepared prior to today or thereafter.

If the demand draft is indeed presented before that court by the petitioner and the complainant is also present in that court on that date, the demand draft shall be released to the complainant by that court, with that fact to be also incorporated in the report to be sent to this court.

Naturally, if this court finds that the demand draft has been 'made' on any date after September 20, 2021, the petitioner would be required to deposit costs for firstly making a wrong averment through his counsel, and also for troubling the complainant for no reason.

Adjourned to 13.10.2021.

To be shown in the urgent motion list.

Interim order to continue till then only and specifically."

Though learned counsel for the petitioner still insists that the petitioner has got executed a demand draft for an amount of Rs.50,000/- in

the name of the complainant, i.e. respondent no.2, learned counsel for the complainant again denies the same and more importantly, a report has been received from the learned SDJM, Moonak, dated 1.10.2021, stating therein that the petitioner did not turn up before that court to deposit any demand draft, though a representative of Mahindra and Mahindra Finance Services Limited, had come present before that court.

That being so, I would see no reason at all for this petition to continue, which is consequently dismissed, with the interim order vacated.

13.10.2021
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(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No