

CRM-M-36762-2021

Date of Decision:01.11.2021

Harkirat Singh Goraya

.....Petitioner

Vs.

State of Punjab

....Respondent

CORAM : HON'BLE MR.JUSTICE AMOL RATTAN SINGH

Present: Mr. Harpreet S. Sandhu, Advocate,
for the petitioner.

Mr. Rana Harjasdeep Singh, DAG, Punjab.

AMOL RATTAN SINGH, J. (Oral)

On 07.09.2021, the following order had been recorded 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.50, dated 01.07.2021, having been registered at Police Station Kabirpur (Ahli Kallan), District Kapurthala, alleging therein the commission of offences punishable under Sections 323/324/452/427/148/149 of the IPC.

Learned counsel for the petitioner first submits that inadvertently it could not be mentioned in the petition that in fact an offence punishable under the provisions of Section 326 of the IPC was also added as one of the offences allegedly committed, which has been duly noticed in the order of the learned Addl. Sessions Judge, while dismissing a similar petition filed before that court.

Learned State counsel endorses that fact as per his instructions.

Learned counsel for the petitioner next submits that the matter has in fact been compromised between the petitioner and the complainant, as also his son, i.e. Upinderjit Singh, as per the compromise deed (Annexure P2) and therefore there was no reason for the learned Addl. Sessions Judge to refuse bail to the petitioner, especially when no other criminal case has been registered against him (as per the instructions of the learned counsel for the petitioner, upon a specific query put to him by this court).

Notice of motion, with Mr. Rana Harjasdeep Singh, DAG, Punjab accepting notice on behalf of the State, on the asking of the court.

In the aforesaid circumstances, the complainant in the FIR, i.e. Davinder Singh, as also Upinderjit Singh who is also stated to have been inflicted injuries by the petitioner and his companions, are ordered to be impleaded as respondents no.2 and 3 in the petition, with the Registry directed to carry out necessary corrections in the memo of parties after taking their particulars from the copy of the FIR itself as has been annexed as Annexure P-1 with the petition.

Notice be now issued to the newly added respondents, returnable on 01.11.2021, to be served upon by normal process, as also through the SHO, Police Station Kabirpur (Ahli Kallan), District Kapurthala.

In the meanwhile, the newly added respondents, as also the petitioner, would appear before learned Chief Judicial Magistrate/Duty Magistrate concerned, to record their statements in respect of any compromise reached between them, with that court to duly establish the identity of all the persons, i.e. the complainants and the petitioner himself.

Thereafter that court would send its report to this court with regard to the statement made by those persons and would also state as to whether there is any other person affected as regards the FIR in question, whose consent would be required even if the petitioner is to be admitted to bail by this court.

Upon the petitioner appearing/surrendering before the trial court/CJM/Duty Magistrate concerned, he shall be admitted to bail to the satisfaction of that court, till the next date of hearing before this court.

In the meanwhile, a gazetted officer would file a reply to the petition. As one of the offences in respect of which the petitioner is stated to be arraigned as an accused, is one punishable under the provisions of Section 326 of the IPC, the MLR in respect of all injuries received by the injured, shall also be annexed with the affidavit of the gazetted officer.”

Pursuant thereto the report of the learned CJM, Kapurthala, dated 27.10.2021, has been received, stating to the effect that respondent no.1, Davinder Singh, as also Upinder Singh, appeared before that court and recorded their statements to the effect that they have indeed compromised the matter with the petitioner of their own violation, with the petitioner (accused) also having made a similar statement.

The investigating officer had also made a statement before that court to the effect that the petitioner is not a proclaimed offender and that other than Davinder Singh and Upinder Singh, there is no other person

aggrieved in the matter.

As per the assessment of that court the compromise arrived at between the parties is also without coercion or undue influence.

That being so, though as per the affidavit filed by the DSP, Sub Division, Sultanpur Lodhi, dated 27.10.2021, the petition deserves to be dismissed, yet with the matter having been amicably settled between the parties and this petition being one seeking that the petitioner be admitted to 'anticipatory bail', without making any comment on the actual merits of the matter, the petition is allowed, with the order dated 07.09.2021, admitting the petitioner to interim bail, made absolute on the same terms and conditions.

The affidavit dated 27.10.2021 is ordered to be taken on record.

November 01, 2021

dharamvir

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned : YES
Whether Reportable : NO