

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-37781-2021

Date of Decision: 16.12.2021

Rohit Garg

.....Petitioner

Vs.

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Shubham Aggarwal, Advocate, for the petitioner.
Mr. Neeraj Poswal, A.A.G., Haryana.
Mr. Suneel Ranga, Advocate, for the victim.

AMOL RATTAN SINGH, J. (ORAL)

On 10.09.2021, 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.357, dated 01.09.2021, having been registered at Police Station Baldev Nagar, District Ambala, alleging therein the commission of offences punishable under Sections 341, 384, 506 of the IPC.

Learned counsel for the petitioner submits that the complaint made on the basis of which the FIR was registered, seemingly is a counter blast to the dispute that the petitioner has with his tenant (one Sushil Kumar), as the petitioner had made an application to the Deputy Excise and Taxation Commissioner, Ambala, on 16.07.2021 (copy Annexure P-2), asking for the license etc. issued to Sushil Kumar to run a liquor shop at the premises of the petitioner.

He submits that though he has no idea as to the relationship between Sushil Kumar and Shailender Khanna (complainant in the FIR in question), however the allegation by Shailender Khanna is that the petitioner demanded Rs.5 lacs from Sushil Kumar in the name of the Home Minister, whereas actually even a viewing of the video clip of the meeting between the petitioner and his tenant, would show that the tenant kept on telling the petitioner that the petitioner has close relations with the Home Minister, to which the petitioner had replied that the Home Minister should not be dragged into the controversy, with no talk having taken place at all with regard to any sum of Rs.5 lacs being given to anybody.

He next submits that the rent agreement between the petitioner and Sushil Kumar was signed on 20.07.2021, with the complaint made by the aforesaid Shailender Khanna being on 03.08.2021, and with the petitioner having already submitted his application to the DETC (Excise) on 16.07.2021.

Notice of motion is issued, with Mr. Munish Sharma, learned AAG, Haryana, accepting notice at the asking of the court.

Adjourned to 02.11.2021.

In the aforesaid circumstances, without making any comment on the actual merits of the case, the petitioner is directed to join investigation within week and upon his doing so, in case he is sought to be arrested, he would be admitted to interim bail, on his furnishing adequate bail and surety bonds to the satisfaction of the arresting officer/Illaqa Magistrate. He shall abide by 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 Illaqa Magistrate immediately, who would then summon the arresting officer and direct him to join him in investigation.

The SP, Ambala, is directed to himself go into the matter and to file his own affidavit in reply to the petition, after duly watching the video clipping etc., and of course bringing forth before this court any evidence that has been gathered of any alleged demand of money in the name of the hon'ble Minister."

Thereafter, the former SSP, Ambala, having filed a reply to the petition, stating therein that as per the video recording, the petitioner time and again had tried to pressurize the victim, by taking the name of the State Home Minister.

However, learned counsel for the petitioner had submitted on 02.11.2021 that if the video clip would be seen, it would be found that there was no such pressure exerted, with it also contending that the reply of the SSP was contradictory in itself, if paragraphs 2 and 4 thereof were read.

Consequently, with a new SP having taken over in the meanwhile, he had been directed to watch the video clip himself and to file an affidavit thereafter.

Pursuant to that order, an affidavit dated 24.11.2021 was filed by the Superintendent of Police, Ambala, in which again it is stated that the petitioner was seen to be time and again taking the name of the Home Minister, for exerting pressure upon the other party (now respondent no. 2 Sushil Kumar), to give him Rs. 5,00,000/- as non-refundable security, on the

pretext that it was 'legal expenses' and for remuneration costs etc., with the video clip having been also annexed in the form of a pen drive along with the said affidavit, and with transcribed copies in English and Hindi of the said conversation, also annexed with the affidavit.

It has next been stated in the affidavit that the rent agreement for the shop in question between the parties took place on 14.07.2021 and therefore in the reply earlier filed (of the SSP), it had been correctly stated in paragraph 2 that the shop was “for letting”, whereas in paragraph 4 the word used was “after letting”, because the agreement was actually attested by the Notary Public on 20.07.2021.

That issue apart, on the last date of hearing, learned counsel for respondent no. 2 had been directed to show from the transcript annexed with the affidavit, as to when the petitioner had actually pressurized him to pay Rs. 5,00,000/- as non-refundable security.

Today, he has taken the court through almost the entire conversation and pointed to the place where the name of the State Home Minister was used, but with it also seen by this court that immediately thereafter in fact respondent no. 2 seemingly refused to pay non-refundable amount of Rs. 5,00,000/-, with him stating that nobody pays such an amount and that he can pay him refundable security.

Learned counsel for respondent no. 2 thereafter points to Annexure P-2 with the petition, which is seen to be a representation made by the petitioner and one Manjula Garg (stated to be his mother), with the said application dated to be 16.07.2021.

A perusal thereof shows that the petitioner and his mother were asking the DETC (Excise) for a copy of the licence issued to respondent no. 2, along with the site plan/map etc. of the premises that would be used as a liquor shop, with it also stated that the representanists had asked respondent no. 2 for a new rent agreement for the year 2021-22, but with respondent no. 2 allegedly having delayed the matter.

The last two lines of the representation state that early action from the office of the DETC was required, as all the information needed to be submitted to the office of hon'ble the State Home Minister.

Undoubtedly, that line was completely uncalled for and to that extent it may be stated that there was some pressure exerted.

However, for the purpose of this petition, which is one seeking that the petitioner be admitted to anticipatory bail, I would see no reason to deny him that concession because, in essence, all that the representation seeks is the copy of the licence issued to respondent no. 2 to run a liquor vend, which obviously any person letting out his premises to anyone for that purpose, would require to see.

It is to be specifically noticed that learned counsel for respondent no. 2 has stated that it was only after this representation that the said respondent was forced to give Rs. 5,00,000/- to the petitioner for taking his premises on rent, because of the pressure exerted; and therefore it would amount to extortion in terms of Section 384 of the IPC, which reads as follows:-

“384. Punishment for extortion. —Whoever commits extortion shall be punished with imprisonment

of either description for a term which may extend to three years, or with fine, or with both.”

For the purpose of this petition alone, this court is to observe that if respondent no. 2 eventually took the shop on rent from the petitioner, then *prime facie* at least it would be seen that that would be because of the aforesaid representation given by the petitioner to the DETC, seeking his licence and therefore possibly that fact itself exerted some pressure on respondent no. 2, with the name of Home Minister, at least at this stage, not seen to be the cause due to which respondent no. 2 paid Rs. 5,00,000/- (as contended), to the petitioner.

However, it is made clear that this observation is made only for the purpose of this petition filed under the provisions of Section 438 of the Cr.P.C., as in my opinion that would not amount to an extortion if a prospective landlord simply asks for the liquor vend licence issued by an authority, for running such liquor vend.

Consequently, this petition is allowed with the order dated 10.09.2021, admitting the petitioner to interim bail, made absolute, on the same terms and conditions.

However, for the sake of repetition it is stated that nothing observed in this order or any order previously passed in this petition, would be taken to be a comment on the merits of the case, which would continue as per investigation as is going on, and if the matter eventually goes to trial, obviously the trial court would also go into the matter wholly on the basis of all evidence led before it, *de hors* any observation made by this court in this petition.

Naturally, any civil proceedings in the matter would also proceed wholly on their own merits.

[Learned counsel for respondent no. 2 submits that he has filed an amended memo of parties in the Registry].

December 16, 2021	(AMOL RATTAN SINGH)
nitin	JUDGE
Whether speaking/reasoned	Yes
Whether Reportable	No.