

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

205

CRM-M-43498-2020

Darshana Kaur and others

... Petitioner

Versus

State of Punjab

... Respondent

(2)

CRM-M-38988-2020

Shamsher Singh

... Petitioner

Versus

State of Punjab

... Respondent

Decided on: 06.04.2021

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present: Mr. Surinder Singh Siao, Advocate
for the petitioners.

Mr. Sidakmeet Singh Sandhu, AAG, Punjab.

(The proceedings have been conducted through video
conferencing, as per instructions.)

G.S. Sandhawalia, J. (Oral)

The petitioners in the present petitions filed under Section 438 Cr.P.C., seek grant of anticipatory bail in case FIR No.88 dated 26.08.2020 under Sections 307/452/506/120-B/436/427/353/186/447/332/511/148/149 IPC registered at Police Station Ladhawal District Ludhiana.

While issuing notice of motion on 25.11.2020 in **CRM-M-38988-2020 'Shamsher Singh Vs. State of Punjab'**, the following contention was noted by the Coordinate Bench :-

“Prayer in this petition is for grant of anticipatory bail to the petitioner in FIR No.88 dated 26.08.2020 registered under Sections 307, 452, 506, 120-B, 436, 427, 353, 186, 447, 332, 511, 148, 149 IPC at Police Station Laddowal, Ludhiana, District Ludhiana.

Counsel for the petitioner has submitted that as per the version given by the complainant – Dinesh Kumar, who is posted as Deputy Director in Horticulture Department on 07.08.2020, the possession of some land was handed over by PLDRC Department to Horticulture Department, Punjab, vide a mutation. It is further stated in the FIR that on the date of incident when number of officials of Horticulture Department had gone at the spot for plantation, the petitioner, his brother and some lady members, threatened them by putting some inflammable substance on clothes tied with the sticks and on that pretext, they threatened them to kill, if they do the plantation.

Counsel for the petitioner has further argued that on an earlier occasion, the father and mother of the petitioner namely Hansa Singh and Darshana, were booked in an FIR No.34 dated 09.03.2014 registered under Sections 447, 353, 186, 506 and 34 IPC at Police Station Laddowal, District Ludhiana. The said FIR was got registered by PLDRC Department with the allegation that the parents of the petitioner have forcibly taken physical possession of the property. It is further submitted that during the pendency of the said trial, the father of the petitioner died whereas the mother of the petitioner namely Darshana Kaur, was acquitted by the Court vide judgment dated 17.09.2020 with an observation that the prosecution has miserably failed to prove their case regarding the possession.

Counsel for the petitioner has, thus, submitted that even if there is a transfer of land from PLDRC Department to Horticulture Department, the transferee department could not transfer better rights as were with the department and the dispute regarding

the possession is still sub judice before the Civil Court as the brother of the petitioner has already filed a civil suit seeking injunction to restrain the erstwhile owner PLDRC from taking the possession of the property. Counsel for the petitioner has, thus, argued that in the absence of any clear evidence that the complainant's department or the PLDRC Department, was ever in exclusive possession of the land, it will be a debatable issue to be decided during the course of trial whether the offence alleged in the FIR are made out.”

It is also not disputed that CRM-M-38988-2020, has been filed by the brother of petitioner Nos.2 & 3 sons of Hansa Singh in CRM-M-43498-2020. In the said petition directions have been sought against official respondents for taking legal action for instigating the sister of the petitioner namely Simranjit Kaur daughter of late Hansa Singh to commit suicide. While issuing notice of motion in CRM-M-23918-2020, the following order was passed:-

“Counsel *inter alia* contends that the possession of the petitioner was interfered with by respondents no. 6 to 12, which led to the petitioner's sister committing suicide. She was admitted in hospital and thereafter forcibly cremated by the officials in the village without any post mortem being conducted in order to hush up her death. In spite of representations dated 17.08.2020 (Annexures P-3 and P-4), no action has been taken against the concerned person. Notice of motion.

Mr. B.S. Sewak, Addl. A.G., Punjab accepts notice on behalf of respondents no. 1 to 5 and 8 to 12 and prays for time.

Adjourned to 24.09.2020, for service of respondents no. 6 & 7.”

Counsel for the State, on instructions from SI Sandeep Kumar, has submitted that the petitioners are not joining investigation.

It is apparent that as such the investigating agency shall naturally oppose the anticipatory bail applications, on account of the fact that they are on back-foot and have to defend their actions as such, whereby they have taken possession of land without any specific orders in their favour, which led to Simranjit Kaur committing suicide.

In such circumstances, this Court is of the opinion that the interim orders passed in favour of the petitioners on 25.11.2020 and 08.01.2021 are liable to be confirmed. Accordingly, the present petitions are disposed off by confirming the abovesaid orders.

It is made clear that petition filed by Darshana Kaur bearing CRM-M-29751-2020 had already dismissed on 29.09.2020. Resultantly, second petition filed by her being petitioner No.1 in CRM-M-43498-2020 was also dismissed as withdrawn on 08.01.2021 and she will not get the benefit of grant of anticipatory bail.

Disposed of.

April 06, 2021
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No