

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

202)

CRM-M-37668 of 2019

Date of Decision: 14.10.2021

Gurtej Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Mr. Sherry K. Singla, Advocate, for the petitioner.
Mr. H.S. Multani, AAG, Punjab

Amol Rattan Singh, J. (Oral)

By this petition, the petitioner seeks the concession of 'anticipatory bail' under the provisions of Section 438 Cr.P.C., upon FIR No.297, dated 25.12.2018, having been registered at Police Station Civil Lines, District Bathinda, alleging therein the commission of offences punishable under Sections 420, 406, 120-B of the IPC.

On September 21, 2021, the following order had been passed:-

Case heard via video conferencing.

On 27.08.2021 the following order had been passed by this court:-

“Case heard via video conferencing.

CRM-25809 of 2021

Vide this application, respondent no.2 wishes to place on record an affidavit dated 17.08.2021 annexing therewith the inquiry report submitted by the DSP to the SSP concerned, on 17.01.2020.

Notice in the application to counsel for the non-applicant petitioner, who accepts notice.

The application is allowed subject to all just exceptions and the aforesaid affidavit (alongwith the inquiry report) is taken on record.

Main case

In response to the last order of this court, an affidavit dated 17.08.2021 has also been filed by the DSP, Economic Offences and Cyber

Cell, Bathinda, which is ordered to be taken on record.

Though learned counsel for respondent no.2 submits that the matter has not been settled between the parties on account of another complaint filed by the petitioner in Police Station Sector- 17, Chandigarh, learned counsel for the State points out that as per the affidavit of the DSP, the said complaint was filed away after an inquiry was conducted, with the finding of the investigating officer being that the allegations could not be substantiated; and eventually with the SSP, Chandigarh, having agreed with that finding and the complaint having been filed away.

A copy of the entire inquiry report, including the approval of the SSP, has been annexed as Annexure R-1 with the affidavit of the DSP, Bathinda.

Since there is a controversy with regard to the matter having been finally settled between the parties or not, affidavits of both, the petitioner and respondent no.2, shall be filed as regards that basic fact, or otherwise.

Since counsel for the petitioner submits that the petitioner would not pursue or get revived the complaint made in Police Station Sector-17, Chandigarh, an affidavit of the petitioner in that regard be also filed.

Adjourned to 21.09.2021.

Interim order to continue till that date only and specifically.”

Today CRM no.30756 of 2021 has been filed by the complainant -respondent no.2, seeking to place on record his affidavit dated 14.09.2021, stating therein that he (Gursewak Singh Gill) would honour the terms of the compromise/settlement arrived at between him and the petitioner on 08.08.2019 (copy Annexure P-3 with the petition), subject to the condition that the petitioner (Gurtej Singh) would not pursue the complaint filed by him in Police Station Sector-17, Chandigarh (as has been referred to the last order passed by this court).

It has next been stated that respondent no.2 never objected to the compromise/settlement prior to his knowledge of the criminal complaint filed in Police Station Sector-17, Chandigarh, and that in fact pursuant to the settlement, he had already withdrawn all three complaints as had been instituted by him under the provisions of Section 138 of the Negotiable Instruments Act, 1881, arraigning the petitioner herein as an accused.

No affidavit has been however filed by the petitioner in terms of the last order of this court, whereby he was required to file such affidavit,

stating that in view of the settlement arrived at between him and respondent no.2, he would not be pursuing the complaint made in Police Station Sector-17, Chandigarh.

Learned counsel for the petitioner submits that the petitioner is “on the run” in view of the fact that there are other FIRs registered against him in Haryana, and therefore he is unable to execute any affidavit and send it to counsel.

Firstly this court should not at all even accept an affidavit from a person who was on the run, but for the fact that it would not eventually harm the petitioner and would harm more respondent no.2 who has already complied with the terms of the settlement, the statement made again today by counsel for the petitioner, to the effect that the petitioner would not be pursuing the complaint filed by him in Police Station Sector-17, Chandigarh (with that complaint in any case having been filed away by the police itself, finding no merit in it), the statement of learned counsel is accepted, with the petitioner held bound to that statement, to the effect that in view of the settlement arrived at between him and respondent no.2, he would not pursue any further the complaint filed by him in Police Station Sector-17, Chandigarh, with the police any case not having found any merit thereto (to repeat).

Learned State counsel seeks time to take proper instructions as to why the petitioners' custodial interrogation is required in the context of the FIR in question (despite the compromise between the parties), as has been stated by the DSP in his affidavit, and whether there are any other criminal cases registered 'against him'.

On his request, adjourned to 14.10.2021.

Interim order to continue till that date only.”

Today, learned State counsel, on instructions, submits that there are two other FIRs registered against the petitioner, in one of which he has still not been admitted to anticipatory bail.

He does not deny, as per his instructions, the factum of the compromise reached between the petitioner and respondent no.2

That being so, without making any comment on the actual merits of the case, whatsoever, this petition is allowed, with the order admitting the petitioner to interim bail on September 06, 2019, made absolute on the same terms and conditions; with it however naturally observed that this order admitting the petitioner to bail would be only in the context of the FIR in question in the present petition and not in the context of any other FIR.

If the petitioners' custodial interrogation is required at any stage hereinafter, in the context of the FIR in question, he would be given 7 days notice before arrest, duly shown to be served upon him.

Naturally, if the complainant is aggrieved in any manner, of lack of proper investigation, he/she would be always at liberty to avail of his/her remedy as per law.

14.10.2021
vcgarg

(AMOL RATTAN SINGH)
JUDGE

Whether reasoned/speaking: Yes
Whether reportable: No