

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

CRM-M-47505-2019
Date of decision-03.08.2021

Vs.

STATE OF PUNJAB ...Respondent

Present: Mr. Gursimran Singh Bawa, Advocate
for the petitioners.

Mr. Ramandeep Singh Sandhu, Sr. DAG, Punjab.

MANOJ BAJAJ, J. (ORAL)

This petition has been filed by the petitioners under Section 438 Code of Criminal Procedure for grant of anticipatory bail in case FIR No.04 dated 08.01.2019 under Sections 419, 420, 467, 468, 471 & 120-B Indian Penal Code, 1860, registered at Police Station Civil Lines, Amritsar District Amritsar. The petitioners apprehended their arrest at the hands of Police, in the above FIR.

Learned counsel for the petitioners has invited the attention of the Court to the order dated 07.11.2019, whereby while issuing notice of motion to respondent-State, the interim protection was extended to the petitioners. The said order reads as under:-

“Learned counsel for the petitioners contends that the petitioners were arrested in case FIR No.06 dated 04.01.2019, under Sections 188, 336 and 420 of the Indian Penal Code,1860 registered at Police

Station Cantonment, District Police Commissionerate, Amritsar and vide order dated 07.01.2019, they were granted the concession of regular bail. Since the bail bonds were yet to be furnished, therefore, the petitioners were not released. He submits that on 08.01.2019, another FIR No. 4 dated 08.01.2019 under Sections 419, 420, 467, 468, 471 and 120-B of IPC, 1860, at Police Station Civil Lines, Amritsar, District Police Commissionerate, Amritsar was registered wherein the petitioners were indicted on the allegations that three accused, namely, Gurpreet Singh, Davinder Singh and Daljit Singh are habitual of furnishing bail bonds by way of impersonation. Gurpreet Singh and Daljit Singh impersonated as Hardeep Singh and Sarabjit Singh respectively. It is pointed out that the said accused persons never appeared in the Court much less with the alleged bonds, etc. and, therefore, it is debatable if any offence is made out or not.

Notice of motion for 24.03.2020.

Meanwhile, the petitioners shall join the investigation and would come present as and when called for and in the event of arrest, the petitioners shall be admitted to interim bail on their furnishing personal and surety bonds to the satisfaction of Arresting/Investigating Officer. The petitioners shall also abide by the conditions as specified under Section 438(2) Cr.P.C.”

Learned counsel for the petitioners further contends that in deference to the said order, petitioner No. 1-Davinder Singh @ Bunty submitted himself before the Police and joined the investigation, but the petitioner No. 2- Suraj could not join the investigation due to outbreak of Pandemic COVID-19 and prays for more time in order to enable the accused Suraj to join the investigation. According to him, the petitioner No. 1 cooperated with the Police Authorities during the investigation and furnished requisite bonds to the satisfaction of the Investigating Officer/Arresting Officer.

Learned State counsel who is assisted by HC Surender Kumar does not dispute this fact that the petitioner No. 1 has joined the

investigation and he is not required for custodial interrogation for the time being. He further states that co-accused Suraj has violated the directions dated 07.11.2019 given by this Court, as he failed to join the investigation.

After hearing learned counsel for the parties, this Court finds that though in the above order, specific directions were given to the petitioners to join the investigation and further to comply with the conditions as specified under Section 438 (2) Cr.P.C., but the needful was not done by petitioner No. 2-Suraj. The admitted stand of the learned counsel for the parties makes it abundantly clear that the petitioner No. 2 after availing the benefit of interim pre arrest bail under Section 438 (1) Cr.P.C. never bothered to comply with the directions given by this Court in the above order and has come up with an excuse that because of Pandemic COVID-19, he could not join the investigation. The prayer for grant of more time on behalf of the said accused is not justified after a period of one year and 8 months. The petitioner No. 2 has not only misused the concession of pre arrest bail and has also delayed the investigation.

In view of the above, prayer for grant of pre arrest bail on behalf of accused Suraj (petitioner No. 2) is declined, whereas the interim order dated 07.11.2019 in respect of accused Davinder Singh @ Bunty (petitioner No. 1) is made absolute.

(MANOJ BAJAJ)
JUDGE

03.08.2021

Vipin kumar

Whether speaking/reasoned :

Yes

No

Whether Reportable :

Yes

No