

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

**CRM-M-6760-2022
Reserved on: 06.07.2022
Pronounced on: 13.07.2022**

MANINDER PAL SINGH ALIAS DIMPLE

...Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Argued by: Mr. Sidhant Vermani, Advocate
for the Petitioner.

Mr. Karanbir Singh, AAG, Punjab.

VINOD S. BHARDWAJ. J.

The instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of concession of Regular bail to the petitioner in case bearing FIR No. 230 dated 28.12.2021 registered under Sections 384, 387, 506 read with Section 34 of the Indian Penal Code, 1860 and Section 25 of the Arms Act, 1959 at Police Station Majitha Road, Amritsar (Annexure P-1).

2. Briefly the case of the prosecution is stated to have been registered on the statement Rajiv Kumar Sabharwal son of Roshan Lal Sabharwal to the effect that he operates a factory of aluminum at Focal Point Maqbool Pura, Amritsar and has one son namely Rohit Sabharwal, aged 37 years, who looks after the business operation. On 18.12.2021 his son Rohit

Sabharwal was visiting relatives at Panchkula where he received threatening a call from unknown person from Mobile No. 72620-47467 on his mobile phone and the said unknown person told his son that he had purchased vehicles of Rs. 2 Crores and demanded a hefty ransom from his son. An information in this regard was given to the Police on 20.12.2021. Thereafter, unknown persons made repeated phone calls to the son of the complainant and demanded ransom (protection money). Such a call was also received at Amritsar on 28.12.2021 at 3:00 p.m. and the son of the complainant was directed to keep the amount ready and wait for his call. All the said calls are stated to have been made from mobile No. 72620-47467. On the basis of the aforesaid statement, the FIR was instituted.

3. Learned counsel appearing on behalf of the petitioner has contended that during the course of the investigation, co-accused Charanjit Singh and Gajinderjit Singh were arrested in the present case and the name of the petitioner was nominated in the disclosure statement of accused Charanjit Singh as per which the petitioner was alleged to have provided the details of the complainant party to the said accused persons. He however contends that apart from the above, there was no other allegation/attribution against the petitioner. Besides, the mobile number from which the extortion calls were made also does not belong to the petitioner and no recovery of any arms or any other material has been effected from the petitioner. Moreover, even as per the said disclosure statement, it was not the petitioner who had made the calls or had tried to threaten the son of the complainant in order to extort and the call in question was also made by the other co-accused. He further contends that the petitioner has been in custody since 02.01.2022 and his further custodial interrogation would not be warranted in

the present case. He further raised an argument that undisputedly, no money was paid to any person and as such, the offence punishable under Section 384 of the IPC would not be attracted in as much as in terms of the definition prescribed under Section 383, the delivery of the property has not been made consequent upon the threat/injury extended to the son of the complainant. A reference in this regard was also made to the judgment of “*Issac Isanga Musumba versus State of Maharashtra*” reported as **2013 (3) R.C.R. (Criminal) 795** as well as to the judgment of “*Shatrughan Singh Sahu versus State of Chhattisgarh*” reported as **2022 (1) C.G.L.J. 132**.

4. Per contra, learned counsel appearing on behalf of the respondent-State of Punjab has contended that the petitioner had duly connived with the other accused persons in order to facilitate commission of the offence of extortion and that one car along with a mobile phone and country made pistol was recovered from the other co-accused person along with 03 live cartridges of .32 bore. Additionally, a knife was also recovered from the dash board of the Car of Gajinderjit Singh @ Rajit Singh and the Registration Certificate of the Car was also in the name of Gajinderjit Singh. He argued that a ransom demand of Rs. 1 crore was raised and that the name of the petitioner figured in the disclosure statement of Charanjit Singh @ Channi to the extent that information regarding the mobile number of Rohit Sabharwal as well as about his residence was given by the petitioner who had carried out the recce. It was on the aforesaid information furnished by the petitioner that the accused persons continued to make threatening calls to the son of the complainant. He however could not dispute the fact that the petitioner is in judicial custody since 02.01.2022 and that he is not involved

in any other criminal case. It was also not in dispute that no ransom money pursuant to any demand had been handed over and further that the FIR does not disclose about the demand of any ransom money by the said accused persons.

5. I have heard learned counsel appearing on behalf of the respective parties and have gone through the record with their able assistance.

6. The Hon'ble Supreme Court in the judgment of "**R.S. Nayak versus A.N. Antulay** reported as **(1986) SC 2045** has prescribed the following ingredients to be satisfied before an offence of extortion defined under Section 383 of the Cr.P.C. and punishable under Section 384 of the Cr.P.C. is to be held applicable;

“(a) the accused must put any person in fear of injury to that person or any persons;

(b) the putting of a person in such fear must be intentional;

(c) the accused must thereby induce the person so put in fear to deliver to any person any property, valuable security or anything signed or sealed which may be converted into a valuable security; and

(d) such inducement must be done dishonestly.”

7. Furthermore, the Hon'ble Supreme Court held in the judgment of "**Issac Isanga Musumba versus State of Maharashtra**" reported as **2013 (3) R.C.R. (Criminal) 795** as under.

“3. We have read the FIR which has been annexed to the writ petition as Annexure P-7 and we find

therefrom that the complainants have alleged that the accused persons have shown copies of international warrants issued against the complainants by the Ugandan Court and letters written by Uganda Ministry of Justice & Constitutional Affairs and the accused have threatened to extort 20 million dollars (equivalent to Rs.110 crores). In the complaint, there is no mention whatsoever that pursuant to the demands made by the accused, any amount was delivered to the accused by the complainants. If that be so, we fail to see as to how an offence of extortion as defined in Section 383, IPC is made out. Section 383, IPC states that whoever intentionally puts any person in fear of any injury to that person, or to any other, and thereby dishonestly induces the person so put in fear to deliver to any person any property, or valuable security or anything signed or sealed which may be converted into a valuable security, commits 'extortion'. Hence, unless property is delivered to the accused person pursuant to the threat, no offence of extortion is made out and an FIR for the offence under Section 384 could not have been registered by the police.

8. It would require consideration of evidence to determine commission of other offences that have been attracted in the FIR.

9. It is noticed that the only attribution against the petitioner is to the effect that he had given the mobile phone number of the son of the complainant to the accused persons and that he had informed about the whereabouts of son of the complainant and there is no other active participation. Furthermore, there is no delivery of any property as well. Additionally, the petitioner is in judicial custody since 02.01.2022 and has undergone more than 06 months of actual custody and does not suffer any criminal antecedents. Without going into the merits of the controversy and

taking into consideration, the facts noticed above as well as the law laid down in precedent judgments by the Hon'ble Supreme Court, I deem it appropriate to enlarge the petitioner on bail to the satisfaction of the trial Court.

10. The instant petition is allowed and the petitioner is ordered to be released on bail on his furnishing requisite bail bond/surety bond to the satisfaction of the Trial Court/Duty Magistrate, concerned.

11. It is made clear that the petitioner shall not extend any threat and shall not influence any prosecution witnesses in any manner directly or indirectly.

12. The observation made hereinabove shall not be construed as an expression on the merits of the case and the trial Court shall decide the case on the basis of available material.

The petition is allowed.

(VINOD S. BHARDWAJ)
JUDGE

JULY 13, 2022

Vishal sharma

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No