

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-10155-2022
Date of decision : 17.03.2022

Shivraj Singh

... Petitioner

Versus

Ranjit Kaur and another

... Respondents

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.P.B.S.Goraya, Advocate
for the petitioner.

Mr.Gazi Mohd. Umair, Advocate
for respondent no.1-complainant.

Mr.Sarabjit Singh Cheema, AAG, Punjab.

VIKAS BAHL, J.(ORAL)

This is a first petition under Section 438 Cr.P.C. read with Section 482 Cr.P.C. for granting anticipatory bail to the petitioner in complaint case bearing COMA no.14 dated 13.06.2017 under Section 3 (x) of the Scheduled Caste & Scheduled Tribe (Prevention of Atrocities) Act, 1989 (in short "SCST Act") and under Sections 427, 452, 506, 148, 149 IPC titled as "Ranjit Kaur vs. Shivraj Singh and others" of Police Station Tarsikka, District Amritsar.

On 10.03.2022, this Court was pleased to pass the following order:-

"Learned counsel for the petitioner inter alia contends that in the present case, in the impugned order, it has not even been specified as to under which Sub-Section of Section 3 of the Scheduled Castes and

Scheduled Tribes (Prevention of Atrocities) Act, 1989, the petitioner has been summoned and thus, it shows that the summoning order has been passed without any application of mind. It is further submitted that the present complaint is a counter blast to FIR No.34 dated 11.04.2017 registered under Sections 452, 324, 148, 149 of the Indian Penal Code, 1860 at Police Station Tarsikka, District Amritsar Rural (Annexure P-2) on the statement of Desa Singh who had specifically alleged in the said FIR that the present petitioner who is Block President was being honoured where an objection was raised by the husband of the complainant and the husband of the complainant had even said that the present petitioner should not have been honoured and for this, he would teach a lesson to him and thereafter, had committed house trespass on the basis of which the said Desa Singh had registered the abovesaid FIR. It is argued that in the present complaint, there is a mention with respect to the alleged incident which happened on 25.05.2017 which is subsequent to the said FIR. It is further argued that there is no injury attributed to any person in the present case and there is delay in filing the complaint inasmuch as the alleged incident is stated to be of 25.05.2017 whereas complaint is dated 13.06.2017. It is contended that the present case is a complaint case and the petitioner is ready to appear before the trial Court within a period of 7 days from today. It is also contended that the co-accused of the petitioner namely Jabarjit Singh @ Bheela has also filed anticipatory bail vide CRM-M-4665-2022, in which, notice of motion has already been issued and the interim order was also passed in his favour and the same is now listed for 17.03.2022.

Notice of motion.

On advance notice, Mr. R.S. Khaira, AAG, Punjab,

appears and accepts notice on behalf of the State/respondent No.2 and seeks time to get instructions.

Adjourned to 17.03.2022.

In the meantime, the arrest of the petitioner is stayed subject to the petitioner appearing before the trial Court within a period of 7 days from today.

In case, the petitioner appears before the trial Court within a period of 7 days from today, the trial Court would release the petitioner on interim bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court.

To be heard alongwith CRM-M-4665-2022.”

Learned counsel for the petitioner has submitted that in pursuance of the said order, the petitioner has already appeared before the Judicial Magistrate Ist Class, Baba Bakala Sahib and the said Magistrate vide order dated 16.03.2022 has released the petitioner on interim bail on furnishing his bail bonds in the sum of Rs.50,000/- with one surety of like amount.

Learned counsel for respondent no.1-complainant has opposed the present petition.

The petitioner has been released on interim bail by Judicial Magistrate Ist Class, Baba Bakala Sahib vide order dated 16.03.2022. The relevant portion of said order is reproduced herienbelow:-

*“Present- Accused/applicant with counsel
Sh SS Randhawa, Advocate.*

Applicant/accused Shivraj Singh filed an application through his counsel for granting permission to furnish bail/surety bonds in compliance of order dated 10.03.2022 passed by the Hon'ble Punjab & Haryana High Court, Chandigarh. Ahlmad was directed to confirm the abovesaid order. Order is genuine as per

report of Ahlmad. In view of abovesaid order dated 10.03.2022, accused Shivraj Singh is ordered to be released on interim bail till 17.03.2022 on furnishing his bail bonds in sum of Rs.50,000/ with one surety each of like amount. Requisite bail/surety bonds furnished and same have accepted and attested. Now further order be awaited for 21.03.2022. Necessary entry be put on sever.

*Date of Order: 16.03.2022 (Karun Kumar)
Judicial Magistrate Ist Class
Baba Bakala Sahib
UID No.PB0636”*

A perusal of the order dated 10.03.2022 would show that it had been noticed that the summoning order had been passed without any application of mind inasmuch as in the impugned order, it has not even been specified as to under which Sub-Section of Section 3 of the SCST Act, the petitioner has been summoned. It was also noticed that the present complaint is a counter blast to FIR No.34 dated 11.04.2017 registered under Sections 452, 324, 148, 149 of the Indian Penal Code, 1860 at Police Station Tarsikka, District Amritsar Rural (Annexure P-2) on the statement of Desa Singh who had specifically alleged in the said FIR that the present petitioner who is Block President was being honoured where an objection was raised by the husband of the complainant and the husband of the complainant had even said that the present petitioner should not have been honoured and for this, he would teach a lesson to him and thereafter, had committed house trespass on the basis of which the said Desa Singh had registered the abovesaid FIR. A coordinate Bench of this Court in case titled as **“Om Parkash Shrama vs. U.T. Chandigarh”**, reported as **2001(3) RCR (Criminal) 840** as well as in **CRM-M-3956-2020 decided on 27.02.2020**

complaint is a counter blast to an earlier FIR / complaint or if the ingredients of the provisions are not met with, then the bar under Section 18 cannot come in the way of the petitioner being granted the concession of anticipatory bail. Moreover, the present case is a complaint case.

Keeping in view the above said facts and circumstances moreso, the facts which have been noticed in the order dated 10.03.2022 as well as the fact that the present petitioner has appeared before the trial Court and has been granted interim bail on furnishing bail bonds and surety bonds, the present petition is allowed and interim order dated 10.03.2022 is made absolute.

Nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

(VIKAS BAHL)
JUDGE

March 17, 2022

Davinder Kumar

Whether speaking / reasoned
Whether reportable

Yes/No
Yes/No