

**In The High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-20222-2021 (O&M)
Date of Decision:- 2.2.2022

Surinder Singh and another Petitioners

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Pawan Attri, Advocate, for the petitioner.

Mr. Rahat Bir Singh Mann, DAG, Punjab,
assisted by ASI Kewal Singh.

Mr. Mohd. Salim, Advocate, for the complainant.

(Proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J. (Oral)

1. The petitioners have approached this Court seeking grant of anticipatory bail in respect of a case registered against them vide FIR No.34, dated 28.4.2021, Police Station Cheema, District Sangrur, under Sections 420, 120-B IPC and Section 13 of Punjab Prevention of Human Smuggling Act, 2012.

2. At the time of issuance of notice of motion on 21.5.2021, this Court had also ordered that the arrest of petitioners shall remain stayed till the next date.
3. Subsequently, the following order came to be passed by this Court on 13.9.2021:

“On 21.05.2021, the following was passed:-

“Case is being taken up for hearing through Video Conferencing due to Covid-19 pandemic. Prayer in the petition under Section 438 Cr.P.C., is for grant of pre-arrest bail to the petitioners in case FIR No.34 dated 28.04.2021, registered at Police Station Cheema, District Sangrur, under Sections 420, 120-B of IPC and Section 13, Punjab Prevention of Human Smuggling Act, 2012.

Learned counsel contends that the aforementioned FIR has been registered on the basis of complaint moved by Jaspal Singh i.e. real brother of petitioner No.2 and brother-in-law of petitioner No.1, on the allegations that the petitioners have taken Rs.13,50,000/- in cash from him on the pretext of sending his son to Australia but have not sent him abroad nor returned the money. Learned counsel contends that in fact the petitioners have been implicated in a false case on account of petitioner No.2 having demanded her share in the 22 acres of land left behind by her deceased father, as per entitlement under the law, whereupon, the complainant implicated the petitioners in a false case.

Notice of motion.

Mr. Sukhbeer Singh, Asstt. A.G., Punjab, accepts notice on behalf of the respondent-State, and requests for time to obtain instructions and to file reply while

Mr. Rakesh Gupta, Advocate, puts in appearance on behalf of the complainant and requests for time to place certain documents on record.

Adjourned to 19.07.2021.

In the meantime, arrest of the petitioners is stayed, till the next date.”

On 19.07.2021 learned State counsel as well as counsel for the complainant requested for more time to file reply, whereupon the case was adjourned to 09.08.2021. On 09.08.2021, only learned State counsel filed reply but no reply has been filed till date by the learned counsel for the complainant.

Learned Counsel contends that perusal of the reply / status report filed by the State reveals that payment alleged to have been made to the petitioners is in cash and despite the complainant allegedly having withdrawn Rs.13 Lakh from his bank account yet the amount allegedly borrowed from Manjit Singh, Rs.7.5 Lakh was also paid in cash to said Manjit Singh and the remaining Rs.6 Lakh allegedly paid to the petitioners was also paid in cash. Learned counsel contends that in the light of categorical allegations of the petitioners that the instant case has been registered by the complainant to implicate the petitioners in a false case on account of petitioner No.2 having demanded her share out of the property of her father i.e. 22 acres of land from her brother i.e. the complainant.

Adjourned to 25.10.2021.

In the light of the position noted above, order dated 21.05.2021, is modified and the petitioners are directed to join investigation and fully cooperate with the police. However, in the event of arrest, the petitioners be released on ad-interim pre-arrest bail, subject to their furnishing bail /

surety bonds to the satisfaction of the Arresting / Investigating Officer. The petitioners shall abide by the conditions envisaged under Section 438(2) Cr.P.C., failing which, the interim protection granted to the petitioners, shall stand vacated.”

4. Learned State counsel, upon instructions from ASI Kewal Singh has informed that the petitioners pursuant to interim directions have joined investigation and are not required for any custodial interrogation and that they are not involved in any other case.
5. Having regard to the aforestated position wherein the petitioners have joined investigation and are not required for any custodial interrogation and are not even wanted in any other case, the petition is accepted and interim directions issued by this Court vide order dated 13.9.2021 are hereby made absolute subject to the condition that the petitioners shall join investigation as and when called upon to do so and cooperate with the Investigating Officer and shall also abide by the conditions as provided under Section 438 (2) Cr.P.C.

02.2.2022

Mohan

(GURVINDER SINGH GILL)
JUDGE

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No