

CRM-M-24672-2021

Date of Decision:10.01.2022

Randhir Singh and another

.....Petitioners

Vs.

State of Punjab

....Respondent

CORAM : HON'BLE MR.JUSTICE AMOL RATTAN SINGHPresent: Mr. Keshav Partap Singh, Advocate,
for the petitioner.

Mr. M.S.Nagra, AAG, Punjab.

AMOL RATTAN SINGH, J. (Oral)

Case heard via video conference.

Though on June 30, 2021, the following order had been passed by
this court(co-ordinate bench):-

“The case has been taken up for hearing through video conferencing.

Prayer in the present filed under Section 438 of the Code of Criminal Procedure, 1973 (for short 'the Cr.P.C.') is for grant of anticipatory bail to the petitioners in case FIR No.340 dated 06.06.2021 registered under Sections 379, 447, 511 and 506 of the Indian Penal Code, 1860 at Police Station Zirakpur, District SAS Nagar, Mohali.

Learned Counsel for the petitioners has submitted that the petitioners have been falsely implicated in the present case. The complainant and petitioner No.2 are co-sharers in land measuring 13 Biga 19 Biswa described in para No.3 of the petition. Petitioner No.2 installed tubewell since 18.07.2012 and constructed house with boundary wall. The complainant having purchased land on 03.05.2018 and 11.09.2018 filed suit for partition which was dismissed on the ground that there was gair mumkin house in the area and the Revenue Court had no jurisdiction. Appeal was also dismissed by the Collector. The complainant filed civil suit before the Civil Court which is pending. Petitioner No.1 has also filed civil suits against Tejinder Singh and others and Shri Pal which are pending. The petitioners are in possession of the suit land and had planted eucalyptus trees and fixed barbed wire with gate. The dispute between the parties is primarily of civil nature. Present FIR has been got registered by the complainant on false allegations just

to put pressure on the petitioners. Alleged offences are not made out against the petitioners. The petitioners are ready to join the investigation.

Notice of motion.

Pursuant to supply of advance copy, Mr. P.S. Walia, Asstt. AG, Punjab has appeared and accepted notice on behalf of the respondent-State.

At this stage, Mr. A.D.S. Jattana, Advocate has appeared on behalf of the complainant and he undertakes to file his power of attorney in the Registry.

Learned State Counsel and learned Counsel for the complainant have submitted that the petitioners trespassed, committed theft and criminally intimidated the complainant and the petitioners do not deserve grant of anticipatory bail as the recovery is to be made.

However, learned State Counsel and learned Counsel for the complainant seek time to file reply.

Adjourned to 14.09.2021.

Reply along with copies of relevant documents be filed in the Registry before that date.

The petitioners are also directed to file copies of the relevant documents in the Registry.

In the meanwhile, the petitioners-Randhir Singh and Jai Singh are directed to join the investigation as and when called upon to do so. In the event of their arrest, the petitioner shall be released on interim anticipatory bail by the arresting officer/investigating officer on furnishing of bail bonds by them to the satisfaction of the arresting officer/investigating officer. The petitioners shall comply with the conditions enumerated under Section 438(2) of the Cr.P.C. failing which they shall not be entitled to the protection of interim anticipatory bail allowed to them.”

Thereafter on 14.09.2021, the following order had been passed:-

“Case heard via video conferencing.

Learned State counsel submits that pursuant to the order dated June 30, 2021, though the petitioner has joined investigation, however he is not cooperating, inasmuch as no recovery has been made from him.

It is to be noticed that learned counsel for the petitioner has submitted that with no theft having been committed by the petitioner, he can get no recovery made. Adjourned to 08.10.2021.

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

Today, an affidavit dated 05.01.2022 has been filed on behalf of the respondent State, which is ordered to be taken on record.

In the said affidavit also, it has again been stated that the petitioners are not co-operating in the investigation and therefore their custodial interrogation is required for effecting recovery of some of articles.

Looking at the fact that civil suits are stated to have been instituted with regard to partition of land of which the petitioners and the complainant and others are stated to be joint owners, I would see no reason to not allow this petition.

That being so, without making any comment on the actual merits of the case, the petition is allowed, with the order dated 30.06.2021, made absolute on the same terms and conditions.

January 10, 2022

dharamvir

**(AMOL RATTAN SINGH)
JUDGE**

Whether speaking/reasoned : YES/NO
Whether Reportable : YES/NO