

In the High Court of Punjab and Haryana at Chandigarh

CRM-M No. 29032 of 2022

Date of Decision: 11.7.2022

Charan Singh

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. Vivek K. Thakur, Advocate
for the petitioner.

Mr. Harpreet Singh Multani, AAG, Punjab.

SURESHWAR THAKUR, J. (ORAL)

1. Through the instant petition, cast under Section 439(2) Cr.P.C., the petitioner challenges the admitting(s) of the respondent concerned, to ad-interim bail, by the learned ASJ, Hoshiarpur, through an order, embodied in Annexure P-7. The apposite FIR bears No. 122 of 18.9.2010, and, is registered at Police Station Dasuya, District Hoshiarpur, therein offences constituted under Sections 420, 465, 468, 471, 120-B of the IPC, and, under Section 12 of the Passport Act, 1967, are embodied.
2. However, the respondent herein was prior thereto, through an order made on 28.1.2013 (Annexure P-5), passed by the learned Magistrate concerned, rather declared a proclaimed person. The above made order was challenged by the respondent-concerned, through his casting CRM-M-21066-2017, before this Court, and, this Court on 08.4.2022, in the operative part of its order, has made the hereinafter extracted direction:-

“Taking into consideration that the petitioner is scheduled to return on 13.04.2022, the operation of the order dated

28.01.2013 (Annexure P-8) passed by the Sub Divisional Judicial Magistrate, Dasuya is stayed for a period of 10 days on his return on 13.04.2022 to facilitate the petitioner to appear before the Court and to take recourse to the remedies available to him in accordance with law.

In the event of his arrest in relation to case FIR No.122 dated 18.09.2010 registered under Section 420, 465, 468, 471 and 120-B of the IPC and Section 12 of the Passport Act, 1967 at Police Station Dasuya, District Hoshiarpur, he shall be admitted to interim bail by the arresting Officer for a period of 10 days or till such time that the petitioner surrenders himself to the jurisdiction of the local Court to avail his remedies which ever is earlier.

To come up on 04.08.2022.”

3. This Court without setting aside the impugned order had yet rendered the afore extracted directions, and, or when the afore petition was yet subjudice.

4. The above extracted direction makes it visible, that a direction is made rather, upon the arresting officer to, within a period of 10 days, admit the respondent herein on ad interim bail. However, the longevity of the admitting to ad interim bail, of the respondent herein, by the arresting officer, in respect of the FIR offences, was directed to last for a period of 10 days or till such time, the applicant-respondent herein surrenders himself, to the jurisdiction of the local Court, to avail his remedies whichever is earlier.

5. The arresting officer concerned, appears to have complied, with the above directions, and, also obviously the respondent herein appears to make the requisite compliances to the above extracted order. However, since in the operative part of the above extracted order, an implied liberty became preserved qua the respondent to subsequently cast, an application

under Section 438 Cr.P.C., before the learned Court concerned, for

therethroughs his becoming admitted to anticipatory bail. Therefore, while availing the above reserved implied remedy to the respondent concerned, he preferred CIS No. BA/767/2022, cast under Section 438 Cr.P.C., before the learned Court concerned. The learned Court concerned, through an order made thereons, on 27.4.2022, proceeded to make a direction upon the investigating officer concerned, to in the event of his arresting the respondent concerned, his proceeding to release him on interim bail. Moreover, thereafter the learned Court concerned, directed, that the bail papers be consigned to the record room.

6. The apparent legal lacuna, which makes its pervasive percolations into the impugned order, is comprised in the factum, that the learned Court concerned, without calling for the status report from the public prosecutor concerned, and, thereafter without either making absolute the ad interim order, hence admitting the respondent herein to interim bail, and/or without rescinding it, it rather untenably proceeding to make a direction for consigning of the bail papers to the record room. The result is, that the learned Court concerned, has untenably terminated the bail application, whereons, rather only an ad-interim pre arrest bail was granted to the applicant-respondent herein, and, has unwarrantedly done so, as the ad-interim pre arrest bail, as granted to the respondent herein, was required to be, as above stated, either made absolute or was to be rescinded, and, that too, after a status report, being elicited from the learned public prosecutor concerned. The above untenable termination of the bail application concerned, is required to be undone.

6. Therefore, after making an interference with the impugned order, the learned Court concerned, is directed to revive the bail application,

and, thereafter shall make lawful orders thereons, but only after awaiting for a decision, to be made by this Court, upon CRM-M-21066-2017, wherethroughs, the respondent herein has challenged the order made on 28.1.2013, hence declaring him a proclaimed offender.

7. However, before a decision is made by this Court, on CRM-M-21066-2017, the learned Court concerned, may not make any order, for drawing any coercive processes against the person of the respondent herein.

8. The petition stands disposed of with the above observations.

(SURESHWAR THAKUR)
JUDGE

July 11, 2022
Gurpreet

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