

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision: 31.01.2022

(1) CRM-M-38416-2021

Gurditta Singh

.....Petitioner.

vs.

State of Punjab

.....Respondent.

(2) CRM-M-40614-2021

Jagseer Singh

.....Petitioner.

vs.

State of Punjab

.....Respondent.

(3) CRM-M-39264-2021

Kamal @ Kamaljeet Singh

.....Petitioner.

vs.

State of Punjab

.....Respondent.

CORAM: - HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: - Mr. Sukhwinder Singh, Advocate,
for the petitioner (in CRMs-M-38416 and 40614-2021)

Mr. Ankit Bishnoi, Advocate,
for the petitioner (in CRM-M-39264-2021)

.....

AMOL RATTAN SINGH, J.

Case heard *via* video conferencing.

By this petition, the petitioners seek the concession of 'anticipatory bail', upon FIR no. 0162, dated 18.06.2021 (in CRM-M-38416-2021), and upon FIR No. 163 dated 18.06.2021 (in CRMs-M-40614 and 39264-2021), having been registered at Police Station Lambi, District Sri Muktsar Sahib, alleging therein the commission of offences punishable under the provisions of Sections 67-A and 67-B of the Information Technology Act, 2000.

Notice had been issued in these petitions on different dates, the first one having been passed in CRM-M-38416-20221 on 16.09.2021, with the said order reading as follows: -

“Case heard by way of video conferencing.

By this petition, filed under the provisions of Section 438 of the Cr.P.C, the petitioner seeks the concession of anticipatory bail, upon FIR no.162, dated 18.06.2021, having been registered at Police Station Lambi, District Sri Muktsar Sahib, alleging therein the commission of offences punishable under Sections 67A and 67-B of the Information Technology Act, 2000.

Learned counsel for the petitioner relies upon an order passed by this court in a similar case (registered vide a separate FIR, i.e. FIR no.130, dated 13.08.2021 at Police Station Gidderbaha, District Sri Muktsar Sahib), alleging therein the commission of the same/similar offences.

Upon the accused in that case, i.e. Manjinder Singh, having filed CRM-M-37033 of 2021, the following order was passed by this court on 08.09.2021:-

“Case heard by way of video conferencing.

By this petition, filed under the provisions of Section 438 of the Cr.P.C, the petitioner seeks the concession of anticipatory bail, upon FIR no.130, dated 13.08.2021, having been registered at Police Station Gidderbaha, District Sri Muktsar Sahib, alleging therein the commission of offences punishable under Sections 67 (A) and 67(B) of the Information Technology Act, 2000.

Learned counsel for the petitioner submits that the petitioner has been wholly falsely implicated in the matter because he is an active participant in the ‘Kisan Morcha’ being held for the past one year; and a private organization is therefore targeting him with no basis to the allegation at all, with the petitioner not concerned in any manner with any “cyber tip line/10 tip line etc.”

He next submits that even though it is stated in the order of the learned Addl. Sessions Judge while dismissing a similar petition, that his mobile numbers had also been verified by the agency, it is nowhere stated that as to what verification was found from his mobile numbers.

Without making any comment on the contention raised by the learned counsel for the petitioner, simply at this stage to determine as to what the exact evidence against the petitioner is, as has been found by the investigating agency so far, notice of motion is issued, with Mr. Rana Harjassdeep Singh,

learned DAG, Punjab, accepting notice on behalf of the respondent State, on the asking of the court.

A gazetted officer is directed to file a detailed reply to the petition, stating also specifically as to how the petitioners' mobile number was connected with child pornography in any manner, and obviously in the context of the contents of the FIR. In the meanwhile, the petitioner is directed to join investigation within one week and upon his doing so, in case he is sought to be arrested, he would be admitted to interim bail, on his furnishing adequate bail and surety bonds to the satisfaction of the arresting officer/Illaqa Magistrate. He shall abide by the conditions stipulated in Section 438(2) of the Cr.P.C.

It is made clear that this is only an interim order by which protection is granted to the petitioner; and whether or not it should be continued after the next date of hearing, would naturally be seen after a reply of a gazetted officer is filed.

Learned State counsel has made a very fair request that upon the petitioner joining investigation, he be directed to surrender his mobile phones to determine the truth of the matter.

To ensure that there is no dispute on whether or not the petitioner surrendered the mobile phones to the investigating officer, the petitioner would in fact appear before the Illaqa Magistrate within one week, who would then summon the investigating officer and record as

to whether the petitioner has handed over any mobile phones to the investigating officer, not.

The petitioners' statement would also be recorded as to the phone numbers as are contained in the said phone.

Adjourned to 05.10.2021."

In this case also, counsel for the petitioner makes the same argument as had been made by the counsel for the petitioner in that case, to the effect that the petitioner has been wholly falsely implicated in the case, only because he was participating in the 'Kisan Morcha'.

Again without making any comment on the contention raised by the learned counsel for the petitioner, but to determine the stand of the State with regard to what investigation has been carried out, notice of motion is issued, with Mr. Rana Harjassdeep Singh, learned DAG, Punjab, accepting notice on behalf of the respondent State, on the asking of the court.

Adjourned to 05.10.2021.

To be heard along with CRM-M-37033 of 2021.

Interim order in the same terms.

Learned State counsel having made the same request as he had made in that case, the petitioner is directed to surrender all his mobile phones, as also other electronic devices used by him (that may be asked from him) to the investigating agency, in terms of order dated 05.10.2021, failing which the interim order would be liable to be vacated on the next date of hearing itself".

It is to be noticed here that as regards CRM-M-37033 of 2021, as has been referred to in the aforesaid order, that petition was dismissed by this court on 25.01.2022, with the following order passed in that case: -

“Case heard by video conferencing.

By this petition, the petitioner seeks the concession of 'anticipatory bail' under the provisions of Section 438 Cr.P.C., upon FIR No.130, dated 13.08.2021, having been registered at Police Station Gidderbaha, Sri Muktsar Sahib, alleging therein the commission of offences punishable under the provisions of Sections 67(A) and 67(B) of the Information Technology Act, 2000.

Pursuant to the order dated 22.12.2021, an affidavit has been filed by the SP, Investigation, Sri.Muktsar Sahib, dated 24.01.2022, which is ordered to be taken on record.

Though the video clip portraying a naked child has not been annexed with the affidavit, it is stated therein by the SP that upon viewing it he found that it contained pornographic content even qua a small child, with what is contained therein having been described in the clip but which is not being reproduced simply for the sake of decency, though otherwise of course upon the eventual investigation report being submitted to the competent court, that would have to be looked at in detail by the court concerned.

This being a petition seeking anticipatory bail, looking at what is contained in the affidavit of the SP, I find no reason to continue with this petition, which is consequently dismissed, with the interim order vacated.

Naturally, the matter would be taken to its logical conclusion on the basis of investigation conducted.

It is to be noticed that learned counsel for the petitioner has stated that the child is only two years old.

Even if that is so, simply looking at the detailed description of what is contained in the videograph, as has been given by the Superintendent of Police, I see no reason to alter this order”.

As regards these three cases, pursuant to the order dated 26.11.2021, short affidavits have been filed in each case by the DSP, Sub Division Malout, District Sri Muktsar Sahib, all dated 21.12.2021, annexing therewith video compact disks, of the video clips that are alleged to have been circulated by the three petitioners herein via their mobile phones etc.

The said affidavits are ordered to be taken on record in each case.

A perusal of even a few seconds of the aforesaid video compact disks, as this court had to do in terms of the last order passed, would show that they are disgustingly obscene and consequently with the allegations against the petitioners being that they had circulated these video clips via their mobile phones, I would see absolutely no ground to entertain these petitions any further.

It is to be noticed that in two of the cases, i.e. CRMs-M-40614 and 39264-2021, the video compact disks contain the same video clips (annexed with the affidavits of the DSP), whereas in

Whether the other video clip pertains to a teenaged girl or an older girl or not, is something which the investigating agency naturally would go into and accordingly submit its report under the provisions of Section 173 Cr.P.C.

For the purpose of these petitions, seeking that the petitioners be admitted to anticipatory bail, I see no reason to go into that detail, after the petitioners joining investigation upon interim orders passed by this court, the video clips are stated to have been obtained by the investigating agency with the allegations against the petitioners that they have circulated the said videos.

All the petitions are dismissed, with the interim orders vacated.

(AMOL RATTAN SINGH)
JUDGE

yes
yes