

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-42889-2021 (O&M)

Date of decision: 10.03.2022

Harmit Kaur

... Petitioner

Vs.

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. A.P.S. Deol, Sr. Advocate with
Mr. Vishal R. Lamba, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

Mr. H.S. Sidhu, Advocate
for respondent No.2-complainant.

ARVIND SINGH SANGWAN, J. (ORAL)

CRM-40787-2021

For the reasons stated in the application, same is allowed and reply
by way of affidavit of the complainant-respondent No.2 is taken on record.

CRM stands disposed of.

CRM-9032-2022

For the reasons stated in the application, same is allowed and
counter-affidavit to the reply filed by the complainant along with annexures is
taken on record.

CRM stands disposed of.

CRM-M-42889-2021

Prayer in this petition is for grant of anticipatory bail in FIR No.43 dated 28.03.2021 under Sections 406, 420, 120-B IPC, registered at Police Station Division No.6, Police Commissionerate Jalandhar.

On 12.10.2021, following order was passed by this Court: -

“...Though this Court may have been in agreement with the extremely detailed order dated 24.09.2021 (Annexure P-15) passed by the learned Additional Sessions Judge, Jalandhar, dismissing a similar petition filed before that Court by the petitioner (after initially having admitted her to interim bail for a fair period of time), yet, Mr.Bedi, learned senior counsel for the petitioner, submits that the figure recorded by that Court in paragraph 10 of the said order, with regard to rent received by the petitioner and her husband (Harbans Singh), on behalf of their principal, Sucha Singh (who had executed a power of attorney in their favour), to the tune of Rs.1,54,57,775/-, is a wholly erroneous figure and in fact that much rent could never have been collected even as per the lease deeds/rent agreements with all the tenants in the premises of the complainant (NRI).

He next submits that for 14 years, i.e. between 2005 to 2019, no complaint was lodged by the principal, who is the brother of the petitioner (and is the complainant), Sucha Singh, in respect of any misappropriation of the rent/lease amounts collected, and the complaint has eventually been filed in the year 2019 actually by Amarjit Singh, who is the nephew of the complainant's wife and had earlier been the complainant's attorney upto 2005. Amarjit Singh's grudge (as contended), is on account of the fact that the petitioner, as an attorney of her brother, i.e. the complainant Sucha Singh, had instituted criminal and civil proceedings against Amarjit Singh.

He further submits that though no specific averment to that effect has been made in the petition, but in the copy of the complaint (Annexure P-6) filed against Amarjit Singh, the factum of sale of 12 acres of land belonging to the brother of an MLA has been duly mentioned and that is why in fact the MLA is in collusion with Amarjit Singh and Sucha Singh, to get the complaint registered.

No comment is made by this Court on that contention, it admittedly not being in the pleadings in the petition, (though the factum of litigation at the hands of the brother of the said MLA has been referred to in sub-para (v) of para no.4 of the petition).

At present only in the context of what the learned senior counsel has submitted, that the figure of Rs.1.5 crores approximately as has been referred to in para no.10 of the order passed by learned Additional Sessions Judge, Jalandhar, dismissing a similar petition before that Court, is stated to be without any basis, notice of motion is issued.

Mr. Amit Mehta, Senior DAG Punjab, at the asking of the Court accepts notice on behalf of the respondent-State.

Mr. Loveneet Thakur, Advocate, accepts notice on behalf of the complainant. The complainant is ordered to be impleaded as respondent no.2 in the petition. The Registry to carry out the necessary corrections in the memo of parties by taking the particulars of the complainant from the FIR annexed with the petition.

Mr. Bains, learned senior counsel for the complainant, points to that part of the order of the learned Additional Sessions Judge, Jalandhar (as contended in para 10 thereof itself), wherein it has been specifically observed as follows:

“Furthermore, a perusal of copy of e-mail dated 20.10.2016, allegedly sent by Harbans Singh co accused to

the complainant shows that an amount of Rs. 96,000/- per month was being received by him as rent. So, the amount of rent from 2006 to 2019, comes to much more than Rs.81,17,295/- as claimed by the accused. Still further, a copy of receipt dated 04.02.2019, allegedly issued by Harmeet Kaur, applicant/accused shows that she received rent in cash for the year 2018 and January 2019 from one tenant Gagandeep Singh @ Toni. This amount of rent is not shown to be deposited in the joint bank account. These facts show that it is not a case of mere settlement of accounts and a dispute of civil nature but is a case of misappropriation of the amount, with mala fide intention, from the very beginning of the receipt of the rent amount.”

However, Mr. Bedi rebuts the aforesaid contention by pointing to the copy of the e-mail dated 20.10.2016, as has been referred to in the aforesaid order, such copy being annexed as Annexure P-8 with the petition, to submit that the details of the rent collected by the petitioner and her husband (as per the e-mail sent by her late husband), was only in respect of rent of approximately Rs.95000/- per month, received in the month of October 2016 and the period before that is not at all mentioned, and consequently the figure of Rs.1,54,57,775/- is not substantiated by any documentary proof whatsoever, to the effect that that much rent was collected for the earlier period.

Adjourned to 30.11.2021.

A gazetted officer is directed to file a reply to the petition, giving therein the basis on which the approximate figure of Rs.1.5 crores was arrived by the investigating agency as has been referred to by the learned Additional Sessions Judge, Jalandhar.

In the meanwhile, till the next date of hearing only and specifically, the petitioner shall continue to remain on interim bail

on the bail/surety bonds already furnished in terms of the interim order passed by the learned Additional Sessions Judge, Jalandhar, dated 20.05.2021. It is made absolutely clear that if, on the basis of the reply to be filed by the respondent-State as also by respondent No.2 (if he chooses to do so), it is seen that what has been observed by the learned Additional Sessions Judge is not without basis, then at least as regards this petition, I would see no reason to continue with it any further.”

Learned State counsel, on instructions from ASI Palwinder Singh, submits that the petitioner has joined the investigation and is no more required for any further investigation.

In view of the above and considering the fact that the petitioner remained on interim bail even during pendency of the petition before the Additional Sessions Judge, Jalandhar, this petition is allowed and the interim bail granted to the petitioner vide order dated 12.10.2021 is made absolute subject to the conditions envisaged under Section 438 (2) Cr.P.C.

It is made clear that in case the petitioner is required for further investigation and for the purpose of submitting the report under Section 173 Cr.P.C., it will be open for the Investigating Officer to call him by issuing an advance notice in writing.

[ARVIND SINGH SANGWAN]
JUDGE

10.03.2022
vishnu

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No