

CRM-M-44880-2021

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-44880-2021
Reserved on: 08.04.2022
Pronounced on:16.05.2022

Hardial Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Amrik Singh Kalra, Advocate
For the petitioner.

Ms. Jaspreet Kaur, AAG, Punjab.

Mr. D.S. Malwai, Advocate
For the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
43	23.04.2021	Barnala, District Barnala	364-A, 386, 342, 323, 506, 148, 149 & 120-B IPC and 25 of Arms Act

1. On the pretext of getting a favorable statement in an alleged FIR registered under sections 376-D and section 4 of POCSO of the victim and duping the alleged accused of a sum of Rs. 13,50,000/-, in connivance with six other members of a gang, the petitioner, having been arraigned as an accused, apprehending arrest in the FIR captioned above, has come up before this Court under Section 438 CrPC seeking anticipatory bail.
2. In paragraph 20 of the bail petition, the accused declares that he has no criminal antecedents.
3. The complainant gave a written complaint to SSP Barnala, in which he alleged that on March 16, 2021, he received a phone call from his brother Gurtej Singh who told him that he and his friend Gursewak Singh, who is a co-villager, had been kidnapped and the kidnappers were demanding a ransom of Rs. Twenty-Five lacs for their release. His brother asked him to arrange the money and save their lives. He appeared to be very tense, and asked him not to disclose this to anyone. The complainant started arranging money and was able to collect a sum of Rs. 5/6 lacs, and in the meanwhile, he was

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continuously receiving phone calls, and the kidnappers started threatening him and demanding money. However, the complainant started recording their calls. The kidnappers asked him to come towards a place and warned him not to disclose it to anyone, or else they would kill the kidnapped person. On reaching the place at about 10 P.M, some persons that place met them, and they told him that Gurtej and Gursewak had raped a girl from their village. At that time, ASI Dharampal and ASI Pritpal Singh also reached the spot and took them to the police station Dhuri, and with their intervention, the matter was compromised for an amount of Rs. Five lacs. As per the compromise, the complainant party handed over a sum of RS. 2.5 lacs each to ASI Dharampal and ASI Pritpal and returned to their village along with the kidnapped persons.

4. The following day, Gurtej Sigh and Gursewak Singh told a shocking revelation. They told the complainant that one Bikar Singh had called them for keeping an evil eye on his wife a few days earlier and said that he had the audio recordings of their conversations. He asked them to meet them at the Barnala bus stand. On reaching there, 4-5 persons, including a woman, came there, and they introduced themselves as Pardeep Singh, Gurpreet Singh alias Vicky, Bikar Singh, Sukhpal Singh, and Sandeep. After some time, these 4-5 persons followed him and his friend to fields and thrashed them and asked them to do as they say on a video clip. They gave in due to the beatings and fear and started saying things they asked them to say on a video being recorded by these persons. After that, they demanded Rs. Twenty-five lacs and forced them into their car and took them away. It was then that he called his brother (complainant) and narrated him that he had been kidnapped and the compromise was effected for 5 lakhs.

5. The complainant and his brother then decided not to give remaining money and report the matter to the police. On realizing this, these persons then got one girl from their gang admitted to a hospital in Patiala and got registered an FIR under section 376D IPC and Section 4 of POCSO in the police station in Barnala.

6. The complainant further stated that their gang members Paramjit Singh alias Pamma, Bhupinder Kaur, Hardiyal Singh, an employee of the vigilance department, Jinder Kaur alias Bhua, Sukhwinder Singh and Ashwani , Chairman, Block Samiti, took a sum of Rs 13,50,000/- for recording a clear statement of the girl under section 164 CrPC absolving them. The complainant stated that they have come to know about the working of a big gang, which includes officials from the police and vigilance.

7. The SSP marked the complaint about an inquiry by DySP, and as per the status report, the inquiry report is as under,

“During the inquiry it was found that at the pointing of the weapons/arm, Pardeep Singh (now present petitioner) Gurpreet Singh alias Vicky, Bikkar

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Singh, Sukhpal Singh and Sandeep Kaur after hatching the conspiracy has wrongfully confined Gurtej Singh and his friend Gursewak Singh and they have also beat them and then all the above said accused persons on the pointing of the weapons have abducted Gursewak Singh and Gurtej Singh in the Alto Car of Gursewak Singh and then demanded Rs.25 lakhs from the relatives of the Gurtej Singh and Gursewak Singh through a phone call. If they failed to make the payment of Rs.25 lakhs, then they have threatened that both of them will be eliminated and they will be also falsely implicated in the rape case, further directed them to make the payment of Rs.25 lakhs at village Benra near Dhuri. Then the complainant party reached at 10.00 AM on 16.03.2021 where SI Dharampal Singh chowki Incharge, Ranike and ASI Pritpal Singh Chowki Incharge Bhalwan, PS Sadar Dhuri, met them. Then relatives of Gursewak Singh had made contact with the above said accused persons, then Gurtej Singh and Gursewak Singh were brought by the above said accused persons in the indica car bearing registration no.PB-59A-1817 and all the above said accused persons have kept both the Gursewak Singh and Gurtej Singh in illegal confinement. Then both the parties were taken to PS Sadar Dhuri and the compromise was effected with the intervention of the police officials.”

8. Based on the enquiry report, on 23-04-2021, the investigator arrested Pardeep Singh, Gurdeep alias Vicky, Bikkar Singh, Sukhpal, Sandeep Kaur. The investigator also found Paramjit Singh alias Pamma to be innocent and petitioner and Bhupinder Kaur could not be arrested as they were absconding.

9. After the arrest, the police recovered Rs 2,30,000 from Pardeep Singh; Rs. 1,45,000/- from Gurdeep alias Vicky; Rs. 1,10,000/- from Bikkar Singh; Rs. 45,000/- from Sukhpal; and Rs. 1,00,000 from Sandeep Kaur.

10. Ld. Counsel for the petitioner contends that the custodial investigation would serve no purpose whatsoever, and the pre-trial incarceration would cause an irreversible injustice to the petitioner and family.

11. Ld. counsel representing the State opposes bail. The contention of behalf of the complainant is that the accused are not entitled to bail during the trial.

REASONING:

12. As per status report dated Dec 4, 2021, the role assigned to the petitioner is narrated as follows:

“There is sufficient evidence available on file against the petitioner that he alongwith other accused was instrumental in getting Rs. 13,50,000/- on the pretext of getting statement u/s 164 Cr.P.C. recorded from victim of FIR No. 30 dated 17.03.2021 registered at Police Station Sadar Barnala and there is phone call conversation between Boota Singh and Hardial Singh, present petitioner wherein petitioner Hardial Singh has offered to get the matter compromised. The conversation contained in pen drive produced by Boota Singh was taken into possession on 25.04.202, which annexed as Annexure R-1/T. The others co-accused abducted Gurtej Singh and Gursewak Singh and demanded Rs. 25 lakh as ransom in order to release the abductees. They also wrongfully restrained them and have criminally intimidated the complainant party that in case ransom is not paid they would eliminate the

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abductees. At this matter was settled for Rs. 13,50,000/- and amount was paid at the place of Ashwani Batra, Chairman Block Smiti, Sanaur in the present of Rajinder Singh son Sarup Singh r/o Sant Hazara Sanaur, District Patiala and statement of alleged victim u/s 164 Cr.P.C. was got recorded in favour of abductees. So, in this manner, petitioner and others, have obtained Rs,18,50,000/- from complainant party. Boota Singh witness produced a pen drive before the Investigating Officer and the same was taken into possession. On examination of this pen-drive the allegations against the petitioner are quite serious in nature.

PRIMA FACIE MATERIAL COLLECTED AGAINST THE PETITIONER:

The statements of Ashwani Batra, Chairman, Panchayat Samiti, Sanaur and Rajinder Singh son Sarup Singh r/o Sant hazara Singh Nagar, Sanaur under 161 Cr.P.C. were recorded. Besides the facts mentioned above, Pen drive produce by witness Boota Singh in which conversation between Boota Singh and Hardial Singh (petitioner) is present was taken into possession (annexure R-1/T) Ashwani Batra and Rajinder Singh have made it clear in their respective statements that "Both sides talked to us and told us that we have reached an agreement of Rs 13 lakh 50 thousand. Boota Singh stated in his statement that Bhupinder Kaur's wife Hardial Singh, Hardial Singh (present petitioner) etc. called at the farm house of Ashwani Batra chairman block smiti to make a statement in favor of Gurtej Singh and Gursewak Singh (accused in FIR 30 dated 17.03.2021 P.S. Barnala) on 18.03.21, Rs.13 lakh 50 thousand were obtained by them."

13. Given the phone conversation, the petitioner had an active role in duping the complainant party. An analysis of the allegations and evidence collected does not warrant the grant of anticipatory bail to the petitioner.

14. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner fails to make a case for bail at this stage.

15. Any observation made hereinabove is neither an expression of opinion on the merits of the case nor shall the trial Court advert to these comments.

Petition dismissed in aforesaid terms. All interim orders granting bail stand vacated.

All pending applications, if any, stand disposed.

**(ANOOP CHITKARA)
JUDGE**

16.05.2022
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Whether speaking/reasoned:	Yes
Whether reportable:	Yes.