

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(105+204-A)

CRM-37205-2021, CRM-43019-2021 and
CRM-44330-2021 in/& CRM-M-45552-2021
Date of Decision : January 06, 2022

Joginder Miglani

.. Petitioner

Versus

State of Punjab

.. Respondent

(Through Video Conferencing)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Sangram Singh Saron, Advocate, for the petitioner.

Mr. Kirat Singh Sidhu, Deputy Advocate General, Punjab.

Mr. Rajwinder Singh Bains, Sr. Advocate, with
Mr. Naresh Devgan Sharma, Advocate, for the complainant.

HARSIMRAN SINGH SETHI J. (ORAL)

CRM-37205-2021

Present application has been filed for placing on record
Annexures P-14 to P-16.

Keeping in view the averments made in the application, the
same is allowed and Annexures P-14 to P-16 are permitted to be taken on
record.

CRM-43019-2021

Present application has been filed for placing on record

Annexures P-17 to P-23.

Keeping in view the averments made in the application, the same is allowed and Annexures P-17 to P-23 are permitted to be taken on record.

CRM-44330-2021

Learned senior counsel for the applicant-complainant prays that he be allowed to withdraw the present application with liberty to avail appropriate remedy if any needed at the later stage.

Ordered accordingly.

CRM-M-45552-2021

Present petition has been filed under Section 439 Cr.P.C for the grant of regular bail to the petitioner in respect of FIR No.83 dated 28.03.2017 registered under Sections 420, 466, 467, 468, 469, 471, 472 and 120-B of the Indian Penal Code, 1860 at Police Station Daba, District Police Commissionerate Ludhiana.

Learned counsel for the petitioner argues that the petitioner had got FIR registered against the present complainant being FIR No.236 dated 01.11.2014 alleging various allegations. During investigation of the said FIR, the Investigating Agency found enough evidence against present complainant to file a challan against him. Learned counsel for the petitioner argues that allegation in the present FIR against the petitioner is that the complainant in the present case, who is accused in FIR No.236 dated 01.11.2014, moved an application under Section 438 Cr.P.C for the grant of anticipatory bail before the trial Court and during the hearing of the said application, an order purported to have been passed by the Hon'ble Supreme

Court of India in SLP (Crl.) No.1313 of 2013 dated 13.01.2013 was presented to show that the conduct of the complainant in the present case (who was accused in FIR No.236 dated 01.11.2014) was not above the board and an enquiry had been ordered to verify his conduct and keeping in view the said fact, bail petition filed by Sh. Naresh Devgan Sharma (complainant in the present case) was dismissed by the trial Court on 18.11.2014 after which, the complainant approached this Court through CRM-M-40018-2014 for the grant of anticipatory bail, which was also dismissed, keeping in view of the same alleged order of the Hon'ble Supreme Court of India.

Learned counsel for the petitioner submits that later on, it transpires that the order presented before the Court purported to have been passed by the Hon'ble Supreme Court of India in SLP (Crl.) No.1313 of 2013 dated 13.01.2013 was fake and on the directions of the competent Court of law, the present FIR i.e. FIR No.83 dated 28.03.2017 was registered against the petitioner and one Vijay Kumar Goyal i.e. the co-accused, who is a lawyer by profession and two other accused. Learned counsel for the petitioner further submits that initially after the investigation, the police came to conclusion that the petitioner as well as co-accused are not guilty of the allegation of presenting a fake order before the competent Court of law and filed a cancellation report on 10.05.2018 for cancellation of FIR No.83 dated 28.03.2017.

Learned counsel for the petitioner further submits that as the petitioner thought that he has been exonerated, the petitioner did not pursue the said case any further but it was later on found by the petitioner that the competent Court of law did not accept the said cancellation report and

ordered further enquiry after which, the investigating agency, submitted a challan against the petitioner as well as co-accused Sh. Vijay Kumar Goyal along with two other in FIR No.83 dated 28.03.2017.

Learned counsel for the petitioner further submits that co-accused Vijay Kumar Goyal filed an application for anticipatory bail initially before the trial Court and thereafter before this Court and on being unsuccessful before both the Courts, he approached the Hon'ble Supreme Court of India by filing SLP (CrI.) No.8531 of 2019 wherein, notice was issued and the Hon'ble Supreme Court of India directed that no coercive steps to be taken against the said accused and that the same proceedings are still pending consideration before the Hon'ble Supreme Court of India.

Learned counsel for the petitioner submits that in the integrum, the petitioner was declared a proclaimed offender and another FIR being FIR No.109 dated 20.09.2019 has been registered against the petitioner under Section 174-A of the IPC.

The prayer in the present petition is that as the petitioner is already behind the bars after he was arrested on 21.08.2021 and the investigation in the present case is already over and the trial is likely to take some time to conclude, no useful purpose would be achieved by keeping the petitioner behind the bars during the entire period of trial and therefore, the petitioner may kindly be extended the benefit of regular bail.

Learned counsel for the respondent-State has filed an affidavit of Mr. Rajan Sharma, PPS Assistant Commissioner of Police, Industrial Area-B, Ludhiana through which he concedes the factum that initially the investigating agency found the petitioner innocent and filed cancellation report in FIR No.83 dated 28.03.2017 but the investigating agency was

directed to conduct further investigation by the competent Court of law, certain facts emerged during further investigation, which showed that the petitioner as well as co-accused Vijay Kumar Goyal along with two others, were prima facie found guilty of the allegations. Learned counsel for the respondent-State also concedes that as of now, the investigation is over and the challan has already stands presented against the petitioner. Relevant part of the said affidavit has been reproduced hereasunder:-

“5. That earlier during the investigation, it was found by the then SHO, P.S. Daba, Ludhiana that the complainant has got registered the said FIR by misleading the Court and because in case FIR No.236 dated 01.11.2014, u/s 389, 420, 506, 120-B IPC, P.S. Division No.5, Ludhiana, the petitioner and his co-accused are the witnesses against the complainant and therefore the complainant has got registered false FIR so that the petitioner and his co-accused could not give evidence against the complainant in that FIR and the then SHO further found that the complainant himself had prepared the said fake order of the Hon'ble Supreme Court. Therefore Cancellation Report was submitted in the present FIR and a new FIR was registered against the complainant for the said offence. However, when the Cancellation Report was submitted before the Ld. Magistrate, then the Ld. Magistrate vide order dated 19.12.2018 directed re-investigation. Accordingly, re-investigation was conducted during which the statements of the Court officials namely Mr. Rinku Goyal (Ahlmed), Mr. Birbal Kumar (Ahlmed), Ms. Prabhjit Kaur (Copyist) and Mr. Gurmeet Singh (Clerk) were recorded u/s 161 Cr.P.C and the Letter issued by the Assistant Registrar of the Hon'ble Supreme Court of India dated 19.09.2016 confirming that the said order of the Hon'ble Supreme Court of India is fake and the same has not been passed in the case of the complainant and rather the same was passed in some other case, were also taken into

possession by the police.

xxxx

xxxx

xxxx

xxxx

6. That it is further submitted that co-accused of the petitioner namely Vijay Goyal had filed a SLP bearing No.8531/2019 in which the Hon'ble Supreme Court of India has granted interim relief to the said co-accused of the petitionenr and has directed that no coercive steps be taken against the said co-accused. However, remaining two co-accused of the petitioner namely Pargat Singh and Parminder Singh are absconding and are still at large.

7. That thus, the petitioner, who in connivance with his co-accused has prepared fake order of the Hon'ble Supreme Court of India and produced the same in the Court proceedings, as mentioned above, is not entitled for the concession of bail.”

Learned counsel for the respondent-State through this affidavit also concedes that the co-accused of the petitioner, who is similarly situated has been granted interim relief by the Hon'ble Supreme Court of India that no coercive steps shall be taken against the said co-accused namely Vijay Kumar Goyal.

Learned senior counsel appearing on behalf of the complainant submits that the allegations against the petitioner of forging of an order supposedly passed by the Hon'ble Supreme Court of India, which was presented before the competent court of law and were successful in ensuring that the complainant does not get the relief of anticipatory bail, are serious in nature. Learned senior counsel further submits that the allegations are such that the petitioner does not deserve the concession of regular bail though, learned senior counsel concedes to the fact that with respect to the co-accused Vijay Kumar Goyal, who is similarly situated as the petitioner

qua the allegations in the FIR, the Hon'ble Supreme Court of India has passed interim orders in his favour of not taking any coercive steps, although the said proceedings are still pending consideration before the Hon'ble Supreme Court of India.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

At this stage, the consideration of this Court is only whether, keeping the petitioner behind the bars during the trial will serve any purpose or not especially in view of the pandemic due to Covid-19, when the Courts are working in restricted manner and the trial is likely to take some time before it concludes. For the said reason, this Court has to opine as to whether, the petitioner will influence the trial or is likely to abscond from the proceedings, in case, he is granted bail. The guilt or innocence of the petitioner will depend upon the evidence, which will come on record during the trial and this Court, is not required to comment upon those aspects as of now.

Keeping in view the fact that the investigation is already over and qua co-accused Vijay Kumar Goyal, who is also facing similar allegations as alleged against the petitioner, the Hon'ble Supreme Court of India has passed interim directions not to take any coercive steps against the said co-accused, further coupled with the fact that the petitioner has undertaken before this Court not to influence the trial or the witnesses in any manner and the trial is likely to take some time before it concludes, the petitioner has made out a case for the grant of regular bail as no material has been brought to the notice of this court that in case the petitioner is extended the concession of bail, he will either influence the trial or is likely

to abscond rather learned counsel for the petitioner has undertaken that petitioner will not influence trial in any manner including influencing the witnesses or will abscond from the trial. In case of default of any of the above undertaking, State shall be at liberty to approach this Court for passing appropriate orders.

In view of the above and without commenting upon the merits of the case, it is directed that the petitioner be released on regular bail, subject to the satisfaction of the trial Court/Duty Magistrate concerned.

However, it is made clear that anything observed herein shall not be construed to be an expression of any opinion on the merits of the case.

January 06, 2022*harsha***(HARSIMRAN SINGH SETHI)****JUDGE**

Whether speaking/reasoned? : Yes

Whether reportable? : Yes