

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.**

234

**CRM-M-42899-2019 (O &M)
Date of decision : 10.01.2022**

AKHTIAR SINGH HANS

.....Petitioner

Versus

STATE OF PUNJAB AND ANR.

...Respondents

CORAM: HON'BLE MR. JUSTICE SANT PARKASH

Present : Mr. Yogesh Goel, Advocate
for the petitioner.

Mr. Tanvir Joshi, AAG, Punjab
for the respondent-State

Mr. J.S. Dadwal, Advocate
for respondent No. 2

SANT PARKASH, J. (ORAL)

The case has been taken up for hearing through video conferencing.

CRM-37144-2021

1. Prayer in the application filed under Section 482 of the Code of Criminal Procedure, 1973 (for short 'the Cr.P.C.') is for placing on record judgment dated 21.09.2021 as Annexure A-1 and exemption from filing the certified and true typed copy of the same.
2. For the reasons mentioned in the application, the same is allowed and judgment dated 21.09.2021 is taken on record as Annexure A-1 and the petitioner is exempted from filing certified and true typed copy of the same.
3. Registry is directed to tag the aforesaid document at appropriate place and paginate the paper book.

CRM-M-42899-2019

1. Prayer in this petition filed under Section 482 of the the Code of Criminal Procedure, 1973 is for quashing of impugned order dated 07.08.2019 passed by learned Judicial Magistrate First Class, Ludhiana whereby the application filed by the petitioner for release of FDR which was deposited vide order dated 16.01.2014 passed by this Court in CRM-M-28 of 2014 titled Akhtiar Singh Vs. State of Punjab while allowing anticipatory bail to the petitioner in case, FIR No. 14 dated 24.09.2013 registered under Sections 382 and 120-B of the Indian Penal Code, 1860 (for short 'the IPC') at Police Station NRI District Ludhiana City, has been dismissed.

2. The above said FIR was registered on complaint made by Avtar Singh on the allegations that the petitioner and his co-accused Rajdeep Kaur snatched the amount of Rs. 25,12,000/- from the complainant which was received by him for executing the sale deed. After registration of the said case, the petitioner filed application before this Court for grant of anticipatory bail and interim bail was granted to the petitioner vide order dated 03.01.2014. Thereafter, the interim bail granted to the petitioner was made absolute vide order dated 16.01.2014. Relevant part of the order reads as under :-

“..... Learned State counsel has submitted that although, the petitioner has joined the investigation but the amount of Rs.25,12,000/- is yet to be recovered which is stated to be robbed by the petitioner along with one Rajdeep Kaur and the application for grant of bail of Rajdeep Kaur has been dismissed vide order dated 3.12.2013 passed in CRM M-35526 of 2013.

At this stage, learned counsel for the petitioner has

submitted that the petitioner is ready to deposit the amount of Rs.25,12,000/- in the trial Court within a week but without prejudice to his right to pursue the criminal case.

So, in these circumstances, the order dated 3.1.2014 passed by this Court is made absolute subject to the condition that the petitioner shall deposit the amount of Rs.25,12,000/- before the trial Court within a week. The said amount shall be kept in the shape of FDR and shall be paid to the successful party along with interest.

It is also made clear that the deposit of the amount shall not effect the rights of either party in respect of the criminal case.”

3. After completion of investigation, final report under Section 173 Cr.P.C. was presented in the court of competent jurisdiction. Finding a *prima face* against the accused (petitioner), he was charge-sheeted under Section 382 read with Section 120-B of the IPC to which he pleaded not guilty and claimed trial.

4. After trial, the petitioner was acquitted by the learned trial Court vide Judgment dated 05.07.2018.

5. On acquittal by the learned trial Court, petitioner moved an application for release of FDR amount along with interest accrued which he had deposited in view of order dated 16.01.2014 passed by this Court.

6. Learned Judicial Magistrate First Class, Ludhiana vide order dated 07.08.2019 dismissed the aforesaid application on the ground that the appeal against acquittal of the petitioner is pending and the amount deposited cannot be released to the applicant.

7. Feeling aggrieved, the petitioner has filed the present petition for quashing of order dated 07.08.2019 passed by learned Judicial Magistrate First Class, Ludhiana.

8. Learned Counsel for the petitioner has submitted that the trial Court has wrongly dismissed the application of the petitioner for the release of the amount without any cogent reasons and the impugned order dated 07.08.2019 is liable to be set aside.

9. Glancing through the impugned order dated 07.08.2019, it would reveal that the sole ground of rejecting the application was that the appeal filed against acquittal of the petitioner was still pending. Today, CRM-37144-2021 has been filed vide which judgment dated 21.09.2021 passed by learned Additional Sessions Judge, Ludhiana is placed on record as Annexure A-1, wherein the appeal against judgment dated 05.07.2018 passed by the learned Judicial Magistrate First Class, Ludhiana whereby the accused persons were acquitted has been affirmed.

10. After having heard and going through the record placed on the file, the present petition deserves to be allowed.

11. At the very outset, the order dated 16.01.2014 passed by this Court confirming the anticipatory bail application (Annexure P-2) would reveal that the amount to be kept in the shape of FDR shall be refunded back to the successful party along with interest and since the petitioner has won the battle and has been acquitted by the learned trial Court and appeal against the judgment of his acquittal has also been affirmed by the first Appellate Court and no appeal against the judgment passed by first Appellate Court has been preferred before this Court, the present petition is allowed and the impugned order dated 07.08.2019 (Annexure P-6) is set aside.

12. The FDR so deposited in terms of order dated 16.01.2014 passed by this Court along with up-to-date interest accrued be released to the petitioner forthwith, against proper receipt and identification.

13. A copy of this order be sent to the Court concerned for requisite compliance.

10.01.2022
kavneet singh

(SANT PARKASH)
JUDGE

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