

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-55745-2019 (O&M)
Date of Decision: 30.03.2022

Om Parkash and another

....Petitioner(s)

Versus

State of Punjab

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Naamparkash Singh Sandhu, Advocate,
for the petitioners.

Mr. Sandeep Singh Deol, DAG, Punjab.

Mrs. Kanwal S. Walia, Advocate,
for the applicant/complainant.

JASGURPREET SINGH PURI, J. (Oral)

CRM-8114-2020

The present application has been filed under Section 439(2) of the Code of Criminal Procedure read with Section 482 of the Code of Criminal Procedure for cancellation of the interim bail granted to the petitioners vide order dated 01.01.2020 passed by this Court.

Learned counsel for the applicant has submitted that the applicant who is complainant in the present case has filed the present application on the ground that after the registration of the FIR and also after the interim order was passed by this Court the petitioners have again taken up a fight with the applicant by twisting the arm and also threatened her for withdrawal of the case. She further submitted that she has perused the reply filed by the State and she has sought instructions that the statement of

the applicant as stated in reply was taken by the police under duress.

A reply has been filed by the State through the Deputy Superintendent of Police, Sub Division Sultanpur Lodhi, District Kapurthala.

Mr. Sandeep Singh Deol, learned DAG, Punjab has submitted while referring to the reply filed by the State that in fact after the receipt of the complaint by the Investigating Officer the matter was enquired into as to whether any intimidation or any other action has been done in violation of the interim order passed by this Court or not and the applicant/complainant herself got her statement recorded that she does not want to pursue the complaint/representation in question and thereafter the Deputy Superintendent of Police also made a report in this regard on 20.04.2021 which was seen by the Senior Superintendent of Police, Kapurthala and the complaint/representation of the complainant was decided. The para No.6 of the affidavit is reproduced as under:-

“6. That it is respectfully submitted that after the grant of interim bail to the accused by this Hon'ble Court on 01.01.2020, the complainant had given a representation dated 14.02.200 numbered 222-SPC/17-2-2020/SHO/SCP stating therein that she had been attacked and intimidated by the accused. However, as per the information received from the Investigating Officer, the complainant had got her statement recorded that she does not want to pursue the representation/application in question. Thus vide report dated 20.04.2021 of Deputy Superintendent of Police, Sub Division Sultanpur Lodhi, which was seen by Senior Superintendent of Police, Kapurthala, the said representation has been decided.

The learned counsel for the petitioner has submitted that the application filed by the applicant/complainant was frivolous and, therefore, the same is liable to be dismissed.

I have heard the learned counsel for the parties.

A perusal of the affidavit filed by the State and from the arguments raised by the learned State counsel it can be seen that the complaint which the applicant/complainant had filed to the police was enquired into and the complainant herself stated that she does not want to pursue the complaint and a report was made by the Deputy Superintendent of Police which was seen by the Senior Superintendent of Police. However, the argument raised by the learned counsel for the applicant/complainant that the statement was taken under duress is not sustainable in view of the fact that the State had filed a reply/affidavit dated 20.10.2021 and it is almost 5 months the applicant/complainant has not filed any counter affidavit or any document to controvert the same. It is only during the course of arguments that such a plea has been taken which cannot be accepted.

In view of the aforesaid factual position, no ground is made out for cancellation of interim bail granted to the petitioners.

The application stands dismissed.

Main case

The present petition has been filed under Section 438 of the Code of Criminal Procedure for the grant of anticipatory bail to the petitioners in FIR No.264 dated 06.11.2019, under Sections 323, 323, 506 and 34 IPC and Section 326 IPC added subsequently, registered at Police Station Sultanpur Lodhi, District Kapurthala.

As per the FIR which was registered on the basis of statement made by complainant Sarabjit Kaur that on 05.11.2019 in the morning when her daughter-in-law namely Varinder Kaur went to the field, then in the meantime petitioner Om Parkash alongwith his wife and his daughter Rajdeep Kaur- petitioner No.2 who were forcibly putting the boundary line of the field in their line and thereafter a fight had taken place and the aforesaid Om Parkash was holding a spade and stick and dispute was pertaining to the boundary line and he gave a stick blow towards her head and petitioner No.2 also gave a datar below to her.

This Court on 01.01.2020 while issuing notice of motion had granted interim bail to the petitioners. The order was thereater directed to be continued. Today, Mr. Sandeep Singh Deol, DAG, Punjab has submitted on instructions from ASI Harjinder Singh that in pursuance of the aforesaid orders passed by this Court on 01.10.2020 the petitioners have joined investigation and they have also cooperated with the investigation process. He further submitted that he has specific instructions to say that both the petitioners are not required for custodial interrogation. Furthermore, the investigation of the case has already been completed and challan has already been presented under Section 173 Cr.P.C and now even charges have also been framed.

Therefore, in view of the aforesaid stand taken by the learned counsel State, the present petition is allowed. The order dated 01.01.2020 is hereby made absolute.

30.03.2022

rakesh

(JASGURPREET SINGH PURI)

JUDGE

Whether speaking

: Yes/No

Whether reportable

: Yes/No