

**IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH**

**CRM-M-25253-2023 (O&M)**

**Date of decision : 06.11.2023**

Kulwant Singh

...Petitioner(s)

*Versus*

State of Punjab

...Respondent(s)

**CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU**

Present: Mr. Sandeep S. Majithia, Advocate for the petitioner.

Mr. C.L.Pawar, Addl. A.G., Punjab for the respondent.

Mr. Suvir Sidhu, Mr. Rajesh Bhatheja & Mr. Arun Kumar,  
Advocates for the complainant.

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**MAHABIR SINGH SINDHU, J.**

Present petition under Section 438 of the Code of Criminal Procedure has been filed for grant of pre-arrest bail to the petitioner in FIR No.145 dated 30.05.2022, under Sections 420, 465, 467, 468, 471 & 120-B of the Indian Penal Code, 1860, registered at Police Station Division No.5, District Ludhiana.

(2) Above FIR was registered on the basis of statement made by complainant-Harchand Singh with the allegations that petitioner got transferred one Registration Certificate of the J.C.B. Machine, which was in

the name of Surjit Singh. Initially, on inquiry, it transpired that said vehicle was transferred in the name of petitioner; but later on, found that same has not been transferred. Petitioner also obtained loan from Bank while hypothecating the JCB Machine by using the forged R.C.

(3) The Coordinate Bench, while issuing notice of motion on 22.05.2023, granted interim bail to petitioner and the same reads as under:-

*“Prayer in the present petition filed under Section 438 Cr.P.C. is for grant of pre-arrest bail to the petitioner in case FIR No.145 dated 30.05.2022, under Sections 420, 465, 467, 468, 471, 120-B IPC, registered at Police Station Division No.5, District Ludhiana (Annexure P-1).*

*Learned counsel for the petitioners submits that the petitioner is Mukh Sewadaar of Gurudwara Mehtiana Sahib, Tehsil Jagraon, District Ludhiana after the demise of earlier Mukh Sewadaar Baba Jora Singh. The complainant is son of late Surjit Singh – brother of aforesaid Baba Jora Singh. The petitioner is son of Avtar Singh, son of Baba Jora Singh. Earlier, dispute arose between the complainant and family of the petitioner and FIR No.137 dated 23.07.2021, under Sections 420, 467, 447, 511 IPC was got registered at Police Station City Jagraon, Police District Ludhiana Rural (Annexure P-2). A Civil Suit titled as “Kulwant Singh and another vs. Paramjit Kaur Dhaliwal and Harchand Singh” was also filed. The complainant also filed false and frivolous complaint for registration of FIR against the petitioner and his father Avtar Singh. The matter was inquired. The said complaint was found to be false, vide Inquiry Report dated 11.06.2021 (Annexure P-3). Thereafter, second complaint dated 28.04.2021 was given to Senior Superintendent of Police, Jagraon and the same was again found to be false, vide report dated 16.07.2021 (Annexure P-4). Then, with the intervention of respectables and common relatives, compromise was got effected between the parties to maintain amicable relations amongst them. Copies of*

*agreement/compromise and the memorandum of agreement, both dated 19.04.2022, have been annexed herewith as Annexures P-5 and P-6 respectively.*

*It has further been submitted that on the basis of above-said compromise, the petitioner withdrew the afore-said Civil Suit for permanent injunction, vide order dated 14.05.2022 (Annexure P-7). The complainant Harchand Singh, on the basis of above-said compromise effected between the parties, filed petition for quashing the FIR No.137 dated 23.07.2021 (Annexure P-2) and the said FIR was quashed by a Co-ordinate Bench of this Court, vide order dated 15.02.2023, passed in CRM-M-23204-2022 (O&M) (Annexure P-8).*

*It is further submitted that the complainant had already moved another complaint. He did not disclose about the same at the time of compromise. The petitioner was not joined in the inquiry and FIR was registered. As per the allegations, late Surjit Singh, brother of above-said late Baba Jora Singh was registered owner of the JCB Machine. By keeping the petitioner in dark, FIR was got registered by the complainant. Earlier, two complaints on the same facts had already been dismissed after inquiry. The complainant is resident of Canada. The case is based on documentary evidence. It is further submitted that the complainant, after getting the benefit of compromise, was estopped from getting the FIR registered. Learned counsel for the petitioner has relied upon Ruchi Agarwal vs. Amit Kumar Agarwal and others reported as 2004 (4) RCR (Criminal) 949.*

*Mr. Suvir Sidhu, Advocate has also appeared on his own on behalf of the complainant. He has submitted that JCB machine was registered in the name of Surjit Singh – father of the complainant. On 01.04.2021, Deputy Superintendent of Police, Raikot sought record regarding ownership of said machine but it was reported that the original record was stated to be destroyed due to heavy rain. On 06.09.2021, RTO, Ludhiana sent a letter-cum-report to Superintendent of Police (I), Ludhiana Rural, stating that Surjit Singh was the owner of JCB*

*machine and further cited clerical error in submission of earlier report to the Deputy Superintendent of Police, Raikot, with a request that the same be treated as cancelled. It is further submitted that the police did not act in accordance with law and there was no hindrance in recording the instant FIR.*

*Notice of motion.*

*Pursuant to advance notice, Ms. Himani Arora, AAG, Punjab has put in appearance on behalf of respondent-State and prays for time to argue the matter.*

*Learned counsel for the complainant is directed to file Vakalatnama in the Registry. Since the case is based on documentary evidence and FIR in question was registered without joining the petitioner in the pre-registration inquiry and from the FIR, it cannot be ascertained if the petitioner had got the vehicle in question transferred in his name, and if so, what documents were submitted and also who had submitted the same.*

*Adjourned to 09.08.2023.*

*In the meanwhile, the petitioner is directed to join investigation as and when so required by the Investigating Agency. In the event of petitioner joining investigation, he shall be admitted to interim bail by the Arresting Officer/Investigating Officer on furnishing of bail bonds/surety bonds by him to the satisfaction of the Arresting Officer/Investigating Officer. The petitioner shall also abide by the conditions as specified under Section 438(2) Cr.P.C.*

*Reply, if any, be filed in the meanwhile.”*

(4) Learned Counsel submits that in pursuance of the aforesaid order, petitioner has already joined the investigation and his custodial interrogation is not required.

(5) Learned State Counsel, on instructions from ASI Paramjit Singh, submits that petitioner has joined investigation and as on today, his custodial interrogation is not required.

(6) Although learned Counsel for the complainant has vehemently opposed the prayer on the premise that complainant is the owner of JCB in question; but keeping in view the fact that State does not require any custodial interrogation of petitioner, therefore, the objection in this regard is overruled.

(7) As a result thereof, petition is allowed; interim order dated 22.05.2023 is made absolute, subject to the conditions as envisaged under Section 438(2) Cr.P.C.

(8) It is made clear that petitioner shall fully co-operate with the Investigating Officer as and when called for further investigation.

(9) The above observations may not be construed as an expression of opinion on merits of the case in any manner; rather confined only to decide the present bail matter.

(10) Disposed off accordingly.

(11) Pending application(s), if any, shall also stand disposed off.

**November 6<sup>th</sup>, 2023**

Gagan

**( MAHABIR SINGH SINDHU )  
JUDGE**

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|----------------------------------|---------------|
| <i>Whether speaking/reasoned</i> | <i>Yes/No</i> |
| <i>Whether Reportable</i>        | <i>Yes/No</i> |