

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-6137-2024
Reserved on 13.02.2024
Date of decision: 20.02.2024

Dr Sandeep ..Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Argued by: Mr. Rajesh Bhatehja, Advocate for the petitioner.

Mr. I.S. Ladher, DAG, Punjab.

Mr. Rajat Malhotra, Advocate for the complainant.

KARAMJIT SINGH, J. (ORAL)

1. This petition has been filed by the petitioner for grant of anticipatory bail in case having FIR No.204 dated 26.09.2023, under Sections 452, 420, 465, 467, 468, 471, 323, 120-B, 148, 149 IPC, registered at Police Station Division No.6, District Police Commissionerate, Ludhiana (Annexure P-1).
2. Briefly, the relevant facts are that complainant Jaswinder Singh filed complaint under Section 156 (3) Cr.P.C. with the Illaqa Magistrate for registration of the criminal case against petitioner/accused Sandeep Sood and other persons. In the complaint, it was alleged that complainant Jaswinder Singh is in possession of the property in question situated in area of Vishwakarma Chowk, Ludhiana being tenant and his family is in possession of the same since 1950. The owner of the said property agreed to sell the same to Jaswinder Singh for total consideration of Rs.41 lacs on 14.06.2005

and Jaswinder Singh made part payment of Rs.16 lacs. However, thereafter differences arose between them and as such sale deed was not executed in favour of Jaswinder Singh. In the meantime, in 2010 petitioner Sandeep Sood started claiming his right over the property in question on the basis of sale deed allegedly executed by power of attorney holder of the original owners, in his favour. Petitioner Sandeep Sood threatened to dispossess Jaswinder Singh from the said property, illegally. On this Jaswinder Singh filed a civil suit seeking declaration and to protect his possession over the aforesaid property. In the said civil suit, the trial Court granted interim protection to Jaswinder Singh vide order dated 01.09.2014. During the pendency of the said suit, it was found that the sale deed alleged by the petitioner was not relating to the property in question. That in the meantime, petitioner filed rent petition against Jaswinder Singh and other persons. That on 03.08.2023, petitioner and his companions trespassed into property in question and gave beatings to Jaswinder Singh and his son and they also took away Rs.1.5 lacs which was lying their and that the entire incident was captured in CCTV cameras. The matter was also reported to the police but police did not intervene. Again on 04.08.2023, petitioner Sandeep Sood along with 50/60 anti social elements came to the premises of Jaswinder Singh and extended threats to him to face dire consequences in case he did not vacate the premises. At that time, the petitioner and his accomplices damaged the CCTV camera and disconnected the electricity supply but even at that time police did not interfere and rather complainant party was taken to police station and illegally confined and false proceedings under Section 107/151 Cr.P.C. were initiated against them.

3. In the complaint, it was further alleged that petitioner Sandeep Sood in connivance with Gopal Krishan, Rajwinder Singh, Jagvir Singh etc. forged one compromise deed dated 17.07.2023 alleging that the matter stands compromised between the parties and the complainant received settled amount and handed over vacant possession of the property in question to the petitioner. Subsequently, petitioner filed civil suit by concealing true facts and obtained order of status quo with regard to property in question from the Court on 05.08.2023, after commission of incidents dated 3/4.08.2023. That there was no question of compromise between the parties and the alleged compromise deed is bearing fake signature of Jaswinder Singh and the original was never produced by the petitioner in the Court. Further the cheque mentioned in the alleged compromise deed was never encashed by anyone.

4. On the basis of the aforesaid complaint moved under Section 156 (3) Cr.P.C., the Court of Judicial Magistrate, Ist Class concerned gave direction to SHO of the police station concerned to register the FIR and to investigate the matter. Resultantly, FIR (Annexure P-1) was registered in the present case against the petitioner and other accused persons.

5. The petitioner apprehending his arrest filed an application under Section 438 Cr.P.C before the Sessions Court for grant of anticipatory bail but the same was dismissed by the Court concerned vide order dated 25.01.2024 (Annexure P-8).

6. Being aggrieved, the petitioner has filed the present petition seeking grant of anticipatory bail.

7. I have heard the counsel for the parties and gone through the

record produced by both the parties.

8. The counsel for the petitioner has submitted that the allegations made in the complaint as well as FIR are totally false. That the property in question was owned and possessed by some third party from whom, petitioner purchased the said property vide registered sale deed dated 24.12.2009 (Annexure P-2). That earlier, complainant Jaswinder Singh was occupying the property in question as a tenant. The petitioner filed rent petition Annexure P-3 against the complainant. During the pendency of the said rent petition, the parties entered into an agreement dated 17.07.2023 Annexure P-4. As per said agreement, the settled amount was paid to complainant Jaswinder Singh and in lieu of that complainant handed over possession of the property in question to the petitioner. Pursuant to the said agreement, the petitioner had withdrawn the rent petition in the light of the aforesaid compromise and the rent controller concerned passed order Annexure P-5 dated 08.08.2023 whereby the rent petition was dismissed as withdrawn. The counsel for the petitioner has further contended that no such incident took place on 3/4 August, 2023, as has been alleged by the complainant. It has been further contended that the possession of the property in question was already handed over by the complainant to the petitioner prior to 3/4 August 2023 on the basis of agreement Annexure P-4 and thus, there was no occasion for the petitioner or any other persons to trespass into the property in question in the first week of August 2023. The counsel for the petitioner while disputing the photographs produced by the other party submits that at the time of alleged occurrence on 03.08.2023, the petitioner was present in his house at Moga as is evident from photographs Annexure

P-7 and this fact falsifies the allegations made by the complainant regarding alleged incidents dated 3/4 August 2023. The counsel for the petitioner further submits that the allegations with regard to forgery of agreement Annexure P-4 will be established during trial. It has been further contended that the petitioner who is a respectable person is ready to join the investigation with the police.

9. Status report filed by way of affidavit of Brij Mohan, Assistant Commissioner of Police, Industrial Area-B, Ludhiana on behalf of the State is available on record.

10. The present petition is contested by the State counsel and counsel for the complainant. Both the counsel have submitted that the Court of Additional Sessions Judge, Ludhiana rightly dismissed the bail application filed by the petitioner under Section 438 Cr.P.C. It has been further submitted that ample evidence is available in order to show that petitioner forged agreement dated 17.07.2023 (Annexure P-4) in order to defraud not only complainant but also the Court concerned. It has been further contended that petitioner had withdrawn the rent petition at the back of the complainant, in order to show that the said agreement was genuine and acted upon by both the parties. The counsel for the complainant has further contended that after fabricating agreement purported to be executed on 17.07.2023, the petitioner along with his accomplices trespassed into the property in question to take its forcible possession on 3rd and 4th August 2023 and the local police also connived with the petitioner. It has been further contended that thereafter, the petitioner while concealing the material facts had withdrawn the rent petition on the basis of aforesaid forged agreement dated 17.07.2023, at the back of

the complainant. That on one hand, petitioner tried to take forcible possession of the property in question in first week of August and on the other hand, on 08.08.2023 he made false statement before the Rent Controller while withdrawing the rent petition by concealing material facts. It has been further contended that petitioner filed one civil suit and obtained order of status quo dated 05.08.2023 by approaching the Court with soiled hands and later on the said injunction order was vacated vide order dated 11.08.2023 (Annexure R-5) by the civil Court when true facts were brought to its notice by the complainant. The revision petition filed by the petitioner against the said order was dismissed by co-ordinate Bench of this Court vide order dated 13.12.2023 (Annexure R-6) having CR-4839-2023. The counsel for the complainant has further argued that the application moved by the complainant for police help was also allowed by the civil Court vide order dated 18.08.2023 after proper appreciation of the actual and factual matrix of the case. Petitioner filed CR-5026-2023 against the said order but the same was dismissed by the co-ordinate Bench of this Court vide separate order dated 13.12.2023 (Annexure R-7). The counsel for the complainant has further submitted that the entire matter was reported to the police but police failed to take any action and then the complainant filed an application under Section 156 (3) Cr.P.C. and the same was allowed by the Court of Illaqa Magistrate concerned vide order dated 15.09.2023 with direction to SHO concerned to register the FIR against petitioner and his accomplices and consequently, FIR in the present case was registered. The counsel for the complainant has further contended that the petitioner who committed forgery and further tried to hoodwink the Court is not entitled to get discretionary

relief of anticipatory bail.

11. I have considered the submissions made by counsel for the parties.

12. Complainant/his firm filed suit for declaration and permanent injunction against the petitioner wherein dispossession of the complainant from property in question was stayed as an interim measure vide order dated 01.09.2014 by the civil Court. In the meantime, petitioner filed rent petition (Annexure P-3) against the complainant and his firm in 2017. The said rent petition was later on withdrawn by the petitioner vide order (Annexure P-5) dated 08.08.2023 by making statement that matter has been compromised between the parties. Order Annexure P-5 was not passed in presence of the complainant or his counsel. There are allegations that on 3rd and 4th of August 2023, the petitioner and his companions tried to take forcible possession of the property in question and photographs captured in the CCTV cameras are produced on record by the counsel for the complainant, which are perused. As per photographs dated 03.08.2023, petitioner was found standing near the site in dispute. There are also allegations that the local police officials did not intervene at the time of the said occurrence, despite being informed about the same. From the perusal of Annexure R-5, it appears that petitioner filed suit for permanent injunction with regard to property in question against the complainant and his firm on 05.08.2023 wherein petitioner alleged that settlement deed is executed between the parties on 17.07.2023 and trial Court passed ex-parte order of status quo in favour of the petitioner on the first date of hearing. Subsequently, the complainant filed an application seeking vacation of the said order of status quo and took plea that no such settlement

deed dated 17.07.2023 was executed between the parties and that the same is a fake document. After hearing the counsel for the parties, the civil Court concerned vacated order dated 05.08.2023 vide order dated 11.08.2023 with observation that the petitioner made a false representation before the Court and procured ex-parte injunction by concealing material facts. The revision petition filed against the said order was also dismissed by co-ordinate Bench of this Court vide order dated 13.12.2023. The application filed by the complainant seeking police help for compliance of interim order dated 01.09.2014 was allowed by the civil Court vide order dated 18.08.2023 and while disposing of the said application the Court concerned raised doubt over the compromise alleged to be executed between the parties. CR-5026-2023 filed by the petitioner against the said order was dismissed by the co-ordinate Bench of this Court vide separate order dated 13.12.2023 with observation that the learned trial Court rightly passed order dated 18.08.2023 to restore the status of property which was earlier at the time of passing of stay order dated 01.09.2014.

13. As per the complainant, he brought the material facts into the notice of the police in writing but the police authorities did not respond. Then complainant filed an application under Section 156 (3) Cr.P.C. which was allowed vide order dated 15.09.2023 and resultantly, FIR was registered in the present case against petitioner and his accomplices.

14. From the perusal of record, it is apparent that petitioner failed to produce the original settlement deed dated 17.07.2023 in the Court concerned at Ludhiana. The Court of Additional Sessions Judge, Ludhiana while dismissing the bail application of the petitioner observed that the alleged

cheque of settled amount was never encashed and manner of payment of Rs.2.5 crore is also questionable and that CCTV footage does not suggest any peaceful atmosphere. It is also apparent that petitioner got ex-parte status quo order from civil Court on 05.08.2023 by concealing material facts and when the truth came before the Court, the said order was vacated by the trial Court on 11.08.2023 and revision petition filed against the said order was dismissed by co-ordinate Bench of this Court. The learned trial Court also granted police help to the complainant vide order dated 18.08.2023 and the revision petition filed against the said order was also dismissed by co-ordinate Bench of this Court.

15. It has been contended by the counsel for the petitioner that photographs Annexure P-7 are enough to establish innocence of the petitioner as at the time of alleged occurrence, petitioner was present in his house at Moga and further that till date, there are no specific findings of the Court with regard to the alleged forgery. Be that as it may, nobody, can be permitted to take the Court proceedings lightly and cannot be permitted to take the Court for a ride by concealing the true facts or by mis-representing the facts before it. In the given circumstances, this Court is of the view that no case is made out for grant of anticipatory bail to the petitioner.

16. In light of the above, the present petition is hereby dismissed. However, the observations made herein above are not to be construed as expression of opinion on the merits of the case.

20.02.2024

YOGESH

Whether speaking/reasoned:-
Whether reportable:-

(KARAMJIT SINGH)
JUDGE

Yes/No
Yes/No