

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-26433-2024 (O&M)

Date of Decision: 10.07.2024

Satnam Singh

... Petitioner

VS.

State of Punjab

... Respondent

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. LS Mann, Advocate for the petitioner

Mr. Rajiv Verma, DAG Punjab

Sandeep Moudgil, J.

Relief

(1). This petition under Sections 438 CrPC has been filed by the petitioner seeking anticipatory bail in case FIR No.131 dated 21.07.2022 under Sections 3307/323/506/341/427/148/149 IPC registered at Police Station Dakha, District Ludhiana.

Facts

(2). Facts as culminating in the FIR is reproduced as under:-

“Statement of Birbal Singh s/o Mandar Singh r/o Valipur Khurd, PS Dakha, Distt. Ludhiana, aged about 34 years, M.No. 70090 47348. Stated that I am a resident of abovementioned address and I am a master in the village Church. On 19.7.2022, at about 12.00 pm, I was coming back to my home at village Valipur after doing prayer then Ramandeep Singh son of Balwinder Singh r/o Nur Bet, was following me on the motorcycle. When my car bearing no.DL-3-CCA-2774 swift reached at Village Valipur Khurd, from GT Road then from my right side, one person suddenly came in front of my car and he gave a blow of rod on the front mirror of my car. In the meantime, 10-12 persons came on the spot and they surrounded me and took me out of the car

and gave beatings to me. Out of them, I recognized Gurpreet Singh s/o Harbans Singh, Gurdev Singh son of Kartar Singh r/o Valipur Khurd and Satnam Singh r/o Razapur. When I called Gurpreet Singh by his name then he in order to kill me gave blow of rod on my head and which got hit on the left side of my head. As I was scuffling with them I received more internal injuries. In the meantime, Ramandeep Singh came from behind and he started raising noise loudly. At this, aforesaid accused persons ran away from the spot alongwith their weapons. As I received injury on my head so I got unconscious and Ramandeep Singh called ambulance at 108 number and got me admitted at Civil hospital Ludhiana. As I had suffered injury on my head, I was lateron got admitted at CMC Hospital Ludhiana where I am undergoing treatment. The motive is that on 12.7.2022, Paramjit Singh s/o Darshan Singh r/o Kotli, Karamjit Singh r/o Kotli, Amarjit Singh s/o Balkar Singh r/o New Rajpur alongwith their accomplice came to me and threatened me that I did not close down the church then they will kill me. The footage of the same is in my possession and I can produce the same, if need arises. At the behest of these persons, the panchayat of village Valipur Khurd also threatened me on 16.7.2022 to close the church and I am also having the footage of the same and I can produce the same. So, kindly legal action be taken against these accused persons. Statement heard, read and is correct. Sd- Birbal Singh...”

Submission by the petitioner

(3). Learned counsel for the petitioner contends that the person with name Satnam is different from the present petitioner as in the FIR, father name of the petitioner has not been mentioned and also the petitioner is not the resident of village Razapur and is actually the resident of village Bholewal Jadid, Ludhiana.

(4). It is further averred that the petitioner has been wrongly declared as proclaimed offender as the proclamation was done at the wrong address i.e. at Village Razapur whereas the petitioner is the resident of village Bholewal,

and rather the alleged proclamation order was never served upon the petitioner as the address mentioned in the proclamation order does not belong to the petitioner. He further urged that even otherwise, no allegation of injury has been attributed to Satnam, or for that matter the petitioner.

State's contention

(5). Learned State counsel opposed the prayer made by the counsel for the petitioner on the ground that the petitioner has tried to conceal facts from this Court inasmuch as the trial court vide order dated 28.02.2024 has declared the petitioner as proclaimed person.

Analysis

(6). The contention of the petitioner with regard to mistaken identity is a matter of trial and this Court need not to go into the merits of the case as it is for the trial court to separate the chaff from the grains. In so far as the concealment of material facts on the part of the petitioner is concerned, it is evident that proclamation under Section 82 CrPC was issued against the petitioner by the trial court vide order dated 03.07.2023 and the matter was adjourned to 05.08.2023 for awaiting presence of the petitioner Satnam Singh. The case was, however, taken up on 04.08.2023 on which date, the SHO/IO concerned was directed to file list of property of the petitioner/accused within 7 days and thereafter to issue warrants of attachment of property under Section 83 CrPC, for 30.11.2023 and thereafter, the matter was adjourned for 29.02.2024 (Annexure P8).

(7). Since the contention raised on behalf of the petitioner was that declaration under Section 82 CrPC was never issued by the trial Court even

after inspection of the record of the trial court, this Court vide order dated 23.05.2024 directed the State counsel to verify the facts and file reply.

(8). Today, Mr. Rajiv Verma, DAG Punjab has handed over a copy of the order dated 28.02.2024 passed by the trial court and the same is reproduced as under:-

“STATE VS Sanam & Ors.

*Present: Sh. Kulwinder Singh APP for State.
Accused Satnam Singh PO.*

Papers put up today by concemed Ahlmad.

At this stage, it has come to my notice that inadvertently, in the previous zimni order dated 05.08.2023, incorect clate i.e. "4.08.2023" got mentioned instead of "05.08.2023". Mistake stands rectified. Perusal of said ortler further reveals that formal order with regard to declaring the accused proclaimed person is not passed inadvertently. Period of 30 days has already been elapsed but accused not appeared. As such, the accused Satnam Singh is declared as proclaimed person. Intimation in this regard be issued to SHO concemed for entry in relevant register.

Now papers be put up on date fixed i.e. 29.2.2024 for purpose already fixed.

Date of order. 28.02.2024

*Sd/- (Shaminder Pal Singh)
Judicial Magistrate, Ist Class,
Ludhiana/UID PB0391”*

(9). A perusal of the above zimni order would show that inadvertently in the zimni order dated 05.08.2023, incorrect date i.e. 4.08.2023 was got mentioned instead of “05.08.2023” and the said mistake was rectified. It was also acknowledged that since formal order with regard to declaring the petitioner as proclaimed person has not been passed, even after 30 days have

been elapsed and the petitioner has not appeared, as such, the petitioner was declared proclaimed person on 28.02.2024. It means that the order declaring the petitioner as proclaimed person was passed way back on 28.02.2024 and the petition was filed on 14.05.2024. It is absolutely indigestible that the petitioner was not in the knowledge of the order dated 28.02.2024 and as such, the contention raised by counsel for the petitioner that the said order dated 28.02.2024 was not before the court file at the time of inspection of the case file, deserves to be rejected.

(10). There is no merit in the present petition and the same is hereby dismissed, however, with cost of Rs.25,000/- for concealing the material facts from this Court which shall be deposited with the High Court Lawyers' Widow Welfare Fund.

(11). Dismissed.

10.07.2024
V.Vishal

(Sandeep Moudgil)
Judge

- 1. Whether speaking/reasoned?
- 2. Whether reportable?

Yes/No
Yes/No