



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-42246-2024
DECIDED ON: 30.08.2024

PAVITTAR SINGH AND ORS

.....PETITIONERS

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mohd. Jameel, Advocate
for the petitioners.

Mr. Jaspal Singh Guru, AAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. Relief sought

The jurisdiction of this Court has been invoked under Section 482 BNSS, 2023 for grant of anticipatory bail to the petitioner in FIR No.67, dated 13.08.2024, under Sections 379, 427 IPC and Section 3 of Prevention of Damage to Public Property Act, 1984, registered at Police Station Sadar Ahmedgarh, District Malerkotla.

2. Prosecution story setup in the present case as per the version in the FIR as under:-

"It is entered that one Letter Number 520 SEP.O. dated 10.7.24 has been received from the office of Block Development and Panchayat Officer Ahmedgarh for enquiry, the contents of which are as. "To Station House Officer, Police Station Ahmedgarh Letter No.520/SE.PO.

dated 10.7.24 Subject: Resolution No.1 dated 26.6.24 of Gram Panchayat Saround is received in this office. Copy of resolution of gram panchayat is being sent to you for necessary action. enclosed Resolution of Gram Panchayat. 5d/-Block Development and Panchayat Officer Ahmedgarh. Name of Panchayat Saround. Block Ahmedgarh, Resolution No.1 dated 26.6.24, Today on 26.6.24 a meeting of Gram Panchayat Saround was held at 9 a.m. under the presidentship of Manager Shri Gurpreet Singh SP.E.O. in which below mentioned proceeding was initiated. Resolution in meeting is passed that Katcha passage from Dandwali road to the house of Nirmal Singh was mettled by affixing interlock by Gram Panchayat. Regarding this, Nirmal Singh son of Sadhu Singh, Bhupinder Singh son of Sadhu Singh, and Labh Singh, Darshan Singh had given a written complaint that Pavittar Singh, Kuldeep Singh sons of Harkewal Singh and Harpreet Singh son of Kuldeep Singh by putting passage with the help of tractor trolley and ploughing tools has caused financial loss to panchayat. Hence, by sending resolution to Station House Officer, Police Station Sadar Ahmedgarh, it is requested that as per provision of Section 220 of Panchayati Raj Act 1994, action may kindly be taken. Copy of resolution is being sent to B.D.P.O. Ahmedgarh for necessary action. Passed and approved. On that, Police Station Sadar Ahmedgarh's Number 1175/5A/PS Sadar Ahmedgarh dated 15.7.2024 was sent by Station House Officer, Police Station Sadar Ahmedgarh marked the same to ASI Narang Singh 2002/Sangrur for conducting enquiry and for taking necessary action.”

3. Contention

On behalf of the petitioners

Learned counsel for the petitioners contends that the dispute revolved in the instant FIR is of civil nature is now being given a criminal colour despite the fact that proceedings under the civil law i.e. under Order 7 Rule 11 CPC is pending before the Civil Judge, Junior Division, Malerkotla. Even otherwise the complainant has remedy available under the relevant Punjab Land Revenue Act and the Punjab Village Common Lands Act (Regulation) Act, 1961.

He has further relied upon the judgment rendered by the Hon'ble Supreme Court in "***Rashmi Rekha Thatoi versus State of Orissa***" (2012) 5 SCC 690 wherein the following observations were made by the Hon'ble Apex Court, which reads as under:-

"Dipak Misra, J.- Leave granted in both the petitions.

2. *"Liberty is to the collective body, what health is to every individual body. Without health, no pleasure can be tasted by man; without liberty, no happiness can be enjoyed by society." [The Works of Lord Bolingbroke with a Life, Vol. 2 (Carey and Hart, 1841) 391] Thus spoke Bolingbroke.*

3. *Liberty is the precious possession of the human soul. No one would barter it for all the tea in China. Not for nothing Patrick Henry thundered:*

"Is life so dear, or peace so sweet, as to be purchased at the price of chains and slavery? Forbid it, Almighty God! I know not what course others may take, but as for me, give me liberty, or give me death!" [Patrick Henry, Speech in House of Burgesses on 23-3-1775 (Virginia)]

4. *The thought of losing one's liberty immediately brings in a feeling of fear, a shiver in the spine, an anguish of terrible*

trauma, an uncontrollable agony, a penetrating nightmarish perplexity and above all a sense of vacuum withering the very essence of existence. It is because liberty is deep as eternity and deprivation of it, infernal. Maybe for this the protectors of liberty ask, "How acquisition of entire wealth of the world would be of any consequence if one's soul is lost?" It has been quite often said that life without liberty is eyes without vision, ears without hearing power and mind without coherent thinking faculty.

5. *Almost two centuries and a decade back thus spoke Edmund Burke:*

*"Men are qualified for civil liberty, in exact proportion to their disposition to put moral chains upon their own appetites; in proportion as their love to justice is above their rapacity, in proportion as their soundness and sobriety of understanding is above their vanity and presumption; in proportion as they are more disposed to listen to the counsel of the wise and good, in preference to the flattery of knaves. Society cannot exist unless a controlling power upon will and appetite be placed somewhere and the less of it there is within, the more there must be without. It is ordained in the eternal constitution of things that men of intemperate minds cannot be free. Their passions forge their fetters." [Alfred Howard, *The Beauties of Burke* (T. Davison, London) 109]*

6. *Similar voice was echoed by E. Barrett Prettyman, a retired Chief Judge of US Court of Appeals:*

"In an ordered society of mankind there is no such thing as unrestricted liberty, either of nations or of individuals. Liberty itself is the product of restraints, it is inherently a composite of

restraints; it dies when restraints are withdrawn. Freedom, I say, is not an absence of restraints; it is a composite of restraints. There is no liberty without order. There is no order without systematised restraint. Restraints are the substance without which liberty does not exist. They are the essence of liberty. The great problem of the democratic process is not to strip men of restraints merely because they are restraints. The great problem is to design a system of restraints which will nurture the maximum development of man's capabilities, not in a massive globe of faceless animations but as a perfect realisation, of each separate human mind, soul and body, not in mute, motionless meditation but in flashing thrashing activity." E. Barrett Prettyman, Speech at Law Day Observances (Pentagon, 1962), as quoted in Case and Comment, Mar-Apr 1963, 26]

7. *Keeping the cherished idea of liberty in mind, the Fathers of our Constitution engrafted in its Preamble: "Liberty of thought, expression, belief, faith and worship." After a lot of debate in the Constituent Assembly, Article 21 of the Constitution came into existence in the present form laying down in categorical terms that no person shall be deprived of his life and personal liberty except according to the procedure established by law."*

On behalf of the State

Learned State Counsel appearing on advance notice, opposes the prayer for the grant of anticipatory bail with assertion that as far the civil suit is concerned, Gram Panchayat has not been made a party, but fails to

refer any efforts made on behalf of the State for implicating the Gram Panchayat in the proceedings by way of any application.

4. **Analysis**

Be that as it may, as is the admitted case of the State that custodial interrogation of the petitioner is not required at this stage as nothing is to be recovered from him except for the documentary evidence which otherwise can also be managed by the State/prosecution agency from the Government Departments/Revenue Department, who is the custodian of such revenue record, this Court find no reason to decline the concession of anticipatory bail as sought in the instant petition.

5. **Decision**

In the light of above, the petitioner is hereby directed to be released on anticipatory bail subject to his joining investigation with the Investigating Officer concerned within a period of one week from today, on furnishing of personal/surety bonds to his satisfaction. The petitioners shall also abide by the terms and conditions as envisaged under Section 482(2) of BNSS, which are reproduced below:-

‘When the High Court or the Court of Session makes a direction under sub-section (1), it may include such conditions in such directions in the light of the facts of the particular case, as it may think fit, including-

(i) a condition that the person shall make himself available for interrogation by a police officer as and when required;

(ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

- (iii) a condition that the person shall not leave India without the previous permission of the Court;
- (iv) such other condition as may be imposed under sub-section (3) of section 480, as if the bail were granted under that section. ’

However, it is made clear that in case the petitioner does not comply with the aforesaid direction of joining the investigation within one week, the order passed by this Court today shall automatically stands cancelled.

In the aforesaid terms, the present petition stands allowed.

30.08.2024

Poonam Negi

(SANDEEP MOUDGIL)
JUDGE

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